

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF OHIO
3 WESTERN DIVISION

4 UNITED STATES OF AMERICA, - Docket No. 3:10-cr-251
5 Plaintiff, - Toledo, Ohio
6 v. - July 26, 2010
7 - Bond Hearing
8 Hor I. Akl, et al., -
9 Defendant. -
10 -----

11 TRANSCRIPT OF BOND HEARING
12 BEFORE THE HONORABLE JAMES G. CARR
13 UNITED STATES DISTRICT JUDGE.

14 APPEARANCES:

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Proceedings recorded by mechanical stenography,
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1 (Commenced at 1:04 p.m.)

13:04:29 2 THE CLERK: 10-CR-251. United States of
13:04:32 3 America v. Hor Akl. Matter called for detention
13:04:39 4 hearing.

13:04:40 5 THE COURT: The government is represented
13:04:42 6 by?

13:04:42 7 MR. HERDMAN: Justin Herdman.

13:04:43 8 MS. POTEAT: Lisa Poteat.

13:04:46 9 MR. BROWN: And Duncan Brown. Good
13:04:48 10 afternoon, Your Honor.

13:04:50 11 THE COURT: And defendant is present in
13:04:51 12 court with his attorney, Mr. Jeffrey Helmick; is that
13:04:54 13 right?

13:04:54 14 MR. HELMICK: That's correct, Judge. Mr.
13:04:56 15 Schulman is here, Sanford Schulman is here who
13:04:58 16 represents the co-defendant. He happened to be in
13:05:00 17 town. I asked him if he'd join me at counsel table.

13:05:04 18 MR. SCHULMAN: Good afternoon.

13:05:04 19 THE COURT: Mr. Schulman.

13:05:10 20 Is the government prepared to proceed?

13:05:12 21 MR. HERDMAN: Yes, Your Honor.

13:05:14 22 THE COURT: And is the defendant prepared to
13:05:17 23 proceed?

13:05:17 24 MR. HELMICK: Yes, Your Honor.

13:05:18 25 THE COURT: Have each of you had a chance to

13:05:21 1 look at the Pretrial Service Officer's report?

13:05:25 2 MR. HERDMAN: I have, Your Honor.

13:05:26 3 MR. HELMICK: Yes, Your Honor.

13:05:30 4 THE COURT: Okay. If I understand
13:05:34 5 correctly, Mr. Helmick, you're proposing that the same
13:05:39 6 property be pledged to secure whatever bond; is that
13:05:52 7 correct?

13:05:52 8 MR. HELMICK: That's correct, Your Honor.

13:05:53 9 THE COURT: And one additional property?

13:05:55 10 MR. HELMICK: That's correct. There's one
13:05:57 11 additional piece of property at the bottom. Judge,
13:06:00 12 with regard to that piece, I know this is unusual, but
13:06:03 13 may we approach?

13:06:05 14 THE COURT: Sure.

13:17:08 15 (Whereupon the following discussion was had
13:17:08 16 at the bench outside the hearing of the courtroom:)

13:17:08 17 THE COURT: There will be two things.
13:17:08 18 Let's take care of this first.

13:17:08 19 (Portion of the record sealed by order of
13:17:09 20 the Court.)

13:17:09 21 MR. HELMICK: Judge, this is just not my
13:17:09 22 day. With regard to the new piece of property, which
13:17:09 23 is at 8703 Garden Road in Montclove and owned by Nazem
13:17:09 24 Akl, which is my client's first cousin, Judge, I didn't
13:17:09 25 want to say this in open court, but his wife is -- she

13:17:09 1 has thyroid cancer, and she's undergoing very difficult
13:17:09 2 treatment, both chemotherapy and radiation. She
13:17:09 3 completed a round of radiation, and she needs to have a
13:17:09 4 scan this morning and additional testing and the
13:17:09 5 follow-up with the doctor. He took her. I doubt if
13:17:09 6 he can be here, which is obviously a problem for me. I
13:17:09 7 can get him in tomorrow, Friday, at some later date with
13:17:09 8 you or with the magistrate.

13:17:09 9 THE COURT: I think the main thing, if I
13:17:09 10 accepted that, I will want to -- maybe the thing to do
13:17:09 11 is I will read the drill into the record, and then you
13:17:09 12 represent to me you will go over with him or her or
13:17:09 13 whatever. The main thing is I go through one by one on
13:17:09 14 the property bond to make sure they understand I'll take
13:17:09 15 the house, end of discussion. Talk to Butch Wilson
13:17:09 16 about this.

13:17:09 17 MR. HELMICK: I know this has happened at
13:17:09 18 least a couple times on people you've released.

13:17:09 19 With regard to one other piece of property,
13:17:09 20 Abdul Akl, that is Hor's cousin and Amera's uncle, he
13:17:09 21 had to leave for Lebanon. He posted for Amera. He
13:17:09 22 said he would post it here. He executed a
13:17:09 23 power-of-attorney. I prepared it. The
13:17:09 24 power-of-attorney appoints Amera's mother, which is his
13:17:09 25 niece -- I'm sorry, his sister, to have

13:17:09 1 power-of-attorney.

13:17:09 2 THE COURT: Following the genealogical chain
13:17:09 3 of the kings of England.

13:17:09 4 MR. HELMICK: But nevertheless, he is not
13:17:09 5 here because he went to Lebanon. She has
13:17:09 6 power-of-attorney. I have a copy of the
13:17:09 7 power-of-attorney. I prepared it; I'll provide the
13:17:09 8 government and the Court with a copy. It specifically
13:17:09 9 sets forth his acknowledgment. He's already posted it
13:17:09 10 for Amera. He understands it's at risk if she flees or
13:17:09 11 doesn't comply with the orders of the Court. He's also
13:17:09 12 making it available for Hor as well, and he understands
13:17:09 13 likewise if Hor would flee or not obey the Court's
13:17:09 14 order, his property could be lost or taken.

13:17:09 15 THE COURT: Not "could" be.

13:17:09 16 MR. HELMICK: I think it does say "will,"
13:17:09 17 actually.

13:17:09 18 MR. HERDMAN: Just briefly in response, Mr.
13:17:09 19 Nazem Akl is the only individual on the list who's not
13:17:09 20 previously been inquired of by government counsel or the
13:17:09 21 Court. So I would ask for some latitude, probably very
13:17:09 22 limited, but some opportunity to inquire at least as to
13:17:09 23 the nature of the property, et cetera.

13:17:09 24 THE COURT: Have you been able to do any
13:17:09 25 record checks on these people?

13:17:09 1 MR. HERDMAN: Well, on everyone but --
13:17:09 2 actually, I think Nazem Akl had already been completed
13:17:09 3 by Pretrial at the request of Amera. He had originally
13:17:09 4 proposed that piece of property on behalf of Amera Akl
13:17:09 5 as well. I think most has been done. I think the
13:17:09 6 magistrate said, I have enough. We stopped at that
13:17:09 7 point. So we never got to Nazem Akl, if I remember
13:17:09 8 correctly from the hearing.

13:17:09 9 MS. POTEAT: Did you want to make
13:17:09 10 representations what you know that is based on, the
13:17:09 11 property assessment?

13:17:09 12 My understanding is the figures come from
13:17:09 13 the property assessment or tax assessment, which may not
13:17:09 14 be up to date with respect to the value of the property
13:17:09 15 and how it's encumbered.

13:17:09 16 MR. HELMICK: That's possible.

13:17:09 17 THE COURT: I got a notice of reduction a
13:17:09 18 year ago.

13:17:09 19 I'm willing to assume the value may be as
13:17:09 20 much as ten percent at today's -- given the current
13:17:09 21 market condition. I'll pick a random number.

13:17:09 22 MR. HELMICK: We can ask them about that,
13:17:09 23 obviously. I will point out to the Court that the
13:17:09 24 numbers I got were from the agreement to forfeit
13:17:09 25 property, which was prepared by the Court's officers

13:17:09 1 with Pretrial Services in terms of listing the values of
13:17:09 2 the property and mortgage balances.

13:17:09 3 MR. HERDMAN: Just as a general matter, too,
13:17:09 4 Jeff and I talked about this. In some sense I feel
13:17:09 5 he's putting the cart before the horse. I want some
13:17:09 6 guidance on how you would like to proceed here today.

13:17:09 7 THE COURT: I'm going to ask you what your
13:17:09 8 position is. I'm going to hear from him, then let you
13:17:09 9 respond, and play advocacy ping-pong back and forth, and
13:17:09 10 make my mind up.

13:17:09 11 MR. HELMICK: So I gather you don't want me
13:17:09 12 to call anybody yet until you decided you're even
13:17:09 13 interested in hearing about the property?

13:17:09 14 (End of side-bar discussion.)

13:17:09 15 THE COURT: Are we now ready to proceed, Mr.
13:17:09 16 Herdman?

13:17:09 17 MR. HERDMAN: Yes, Your Honor.

13:17:09 18 THE COURT: Mr. Helmick?

13:17:09 19 MR. HELMICK: Yes, Your Honor. Thank you.

13:17:09 20 THE COURT: Mr. Herdman.

13:17:09 21 MR. HERDMAN: Your Honor, obviously we're
13:17:09 22 here on the defendant's motion for bond in this case.
13:17:09 23 And the government's position, quite simply, is that Mr.
13:17:09 24 Akl poses a substantial risk of flight in this instant
13:17:09 25 case. It's based on a number of factors. I'll go

13:17:09 1 through them relatively quickly.

13:17:09 2 But first and foremost is the nature of the
13:17:09 3 charges against Mr. Akl. One of the charges, in fact
13:17:09 4 the lead charge is a violation of conspiracy to provide
13:17:09 5 material support to a designated foreign terrorist
13:17:09 6 organization, a violation of 18 U.S.C. 2339(b). And
13:17:09 7 that statute -- a charge with that statute obviously
13:17:09 8 carries with it a presumption that the defendant
13:17:09 9 possesses both a risk of flight and a danger to the
13:17:09 10 community. I'll address my comments almost exclusively
13:17:09 11 to the risk of flight analysis here.

13:17:09 12 THE COURT: I candidly don't see much in the
13:17:09 13 way of danger to the community in light of the
13:17:09 14 recurrence of a similar kind of conduct. If I
13:17:09 15 understand from the complaint correctly, whatever funds
13:17:09 16 were anticipated -- was anticipated were going to be
13:17:09 17 sent overseas would have come ultimately from the
13:17:09 18 government. If I am mistaken in that, tell me.
13:17:09 19 That's the impression I have. And I can't imagine the
13:17:09 20 government's about to resume those kinds of
13:17:09 21 negotiations.

13:17:09 22 MR. HERDMAN: And so I'll address these to
13:17:09 23 the fact that Hor Akl is himself as a standalone matter,
13:17:09 24 that's taken outside the fact he's being charged with a
13:17:09 25 conspiracy, as a standalone, Mr. Akl is a substantial

13:17:09 1 flight risk.

13:17:09 2 First, the severity of the charges in this
13:17:09 3 case. You're aware the money laundering charges carry a
13:17:09 4 20-year statutory max, and the government is persuaded
13:17:09 5 that the terrorism enhancement is likely to apply or we
13:17:09 6 would seek for it to apply, in which case the maximum
13:17:09 7 sentence under Counts 2 and 3 would be 240 months and
13:17:09 8 would be achievable under the Sentencing Guidelines with
13:17:09 9 use of the terrorism enhancement. And moreover, there
13:17:09 10 are separate counts of arson which carries a ten-year
13:17:09 11 mandatory minimum, and the government's position would
13:17:09 12 be that that probably is --

13:17:09 13 THE COURT: That's the mandatory minimum?

13:17:09 14 MR. HERDMAN: Mandatory minimum, Your Honor.
13:17:09 15 And the government's position is that probably would
13:17:09 16 have to be served consecutively, as well as the
13:17:09 17 bankruptcy fraud charges would also probably have to be
13:17:09 18 served consecutively.

13:17:09 19 THE COURT: What do they carry?

13:17:09 20 MR. HERDMAN: They are a five-year maximum
13:17:09 21 sentence, Your Honor, on each charge. I think there's
13:17:09 22 three.

13:17:09 23 THE COURT: Why would they have to be served
13:17:09 24 consecutively?

13:17:09 25 MR. HERDMAN: They are part of -- it is a

13:17:09 1 set of circumstances in conduct that is, although it's
13:17:09 2 tied in with the money laundering, and the government's
13:17:09 3 position it's also tied in with the material support,
13:17:09 4 that that conduct may -- I should say may need to be
13:17:09 5 served consecutively. I haven't done a very careful
13:17:09 6 analysis, but it's possible.

13:17:09 7 THE COURT: It seems hard for me to imagine
13:17:09 8 that it would be a mandatory consecutive.

13:17:09 9 MR. HERDMAN: I may have misspoken,
13:17:09 10 certainly not mandatory consecutive. It would be --

13:17:09 11 THE COURT: We can approach this from the
13:17:09 12 standpoint the government is going to prevail on all the
13:17:09 13 charges, can and will be seeking whatever the maximum
13:17:09 14 term is.

13:17:09 15 MR. HERDMAN: Yes, Your Honor.

13:17:09 16 THE COURT: -- terms are.

13:17:09 17 Go ahead.

13:17:09 18 MR. HERDMAN: With respect to Mr. Akl
13:17:09 19 himself, this is an individual that has long-term and
13:17:09 20 sustained ties overseas, primarily to Lebanon. His
13:17:09 21 immediate family resides in Lebanon. He has business
13:17:09 22 interests in Lebanon, I think a piece of family property
13:17:09 23 and a water park. I believe that water park is an
13:17:09 24 income-generating property. As well as he retains some
13:17:09 25 notion of allegiance or affinity to Lebanon. When he

13:17:09 1 was interviewed by agents, he stated he has an entire
13:17:09 2 life over in Lebanon that's separate and apart from that
13:17:09 3 life that he has in the United States. He is a
13:17:09 4 Lebanese passport holder and a U.S. passport holder.
13:17:09 5 And he has through his -- through his brother apparently
13:17:09 6 he has some longstanding ties to the Lebanese
13:17:09 7 government. And I believe at one point in time he was
13:17:09 8 even able to get a military service requirement absolved
13:17:09 9 or taken care of through his ties to the Lebanese
13:17:09 10 government.

13:17:09 11 THE COURT: This is a little off subject,
13:17:10 12 but while it occurs to me, what did he do until a year
13:17:13 13 or so ago, cook at Spice Bar?

13:17:19 14 MR. HERDMAN: Yes. I'll let Mr. Helmick
13:17:21 15 speak to that. He was an owner and operator of a
13:17:25 16 restaurant, I think maybe until December of 2007, the
13:17:28 17 fall of 2007. And he's been primarily unemployed since
13:17:31 18 then.

13:17:31 19 But actually that's an important point,
13:17:34 20 which is that Mr. Akl, were he to flee the jurisdiction
13:17:39 21 and go overseas, is more than capable of -- he has a set
13:17:42 22 of skills that are fungible. It doesn't matter where
13:17:46 23 he is in the world. He can provide construction
13:17:48 24 services. He is apparently a skilled carpenter,
13:17:52 25 construction worker, and would be capable of providing

13:17:55 1 not only for himself but his family by pursuing that
13:17:58 2 line of work, which I think would be available pretty
13:18:02 3 much anywhere in the world.

13:18:05 4 Mr. Akl has travelled many times over to
13:18:09 5 Lebanon. Again, I think that's a demonstration of the
13:18:13 6 affection he still retains for that country and the ties
13:18:17 7 that he has to that country, his family that is in that
13:18:19 8 country, and his business interests that are in that
13:18:22 9 country.

13:18:23 10 And he's also demonstrated an ability to
13:18:25 11 obtain tickets to travel over to Lebanon on relatively
13:18:30 12 short notice and pay cash for them. And those
13:18:32 13 allegations are laid out in both the complaint and the
13:18:35 14 indictment, Your Honor.

13:18:38 15 And as you read the charges in the
13:18:41 16 indictment, it's very clear that the defendant saw this
13:18:45 17 opportunity to launder money and provide support to
13:18:49 18 Hezbollah.

13:18:51 19 THE COURT: Well, and make 30 percent along
13:18:53 20 the way.

13:18:53 21 MR. HERDMAN: Yes. And he saw this as a
13:18:55 22 moneymaking opportunity. And the purpose of that, Your
13:18:57 23 Honor, was to provide him with the ability to sustain
13:19:00 24 business interests in both Lebanon and the United
13:19:03 25 States, and to provide for a life for him and his family

13:19:06 1 in both Lebanon and in the United States. I submit
13:19:09 2 that that is a very important factor in analyzing the
13:19:12 3 risk of flight that this defendant poses. Because he
13:19:15 4 is somebody that would be more than willing to relocate
13:19:18 5 not just himself but his entire family back over to
13:19:20 6 Lebanon.

13:19:21 7 And I also would point out Lebanon is not
13:19:24 8 the only country with which this defendant is familiar.
13:19:26 9 He lived for a period of time in Brazil as a young man.
13:19:30 10 I don't know what his level of Portuguese speaking
13:19:32 11 ability is, but I think he lived there for at least four
13:19:35 12 years. And he also has family in Brazil. So this is
13:19:40 13 yet another option were he to elect to leave the
13:19:44 14 jurisdiction.

13:19:45 15 THE COURT: Let me ask you this: How, in
13:19:49 16 the government's view, could that be accomplished? In
13:19:53 17 all candor, where could he go and how could he get
13:19:56 18 there, either by himself or with his wife and three
13:19:59 19 children?

13:20:00 20 MR. HERDMAN: I'm somewhat reluctant to lay
13:20:04 21 out maybe a step-by-step, but I think as a general
13:20:07 22 matter, Your Honor, the fact that the defendant is a
13:20:10 23 Lebanese passport holder, as is his wife, I have perhaps
13:20:15 24 a reduced confidence in our ability to monitor whether
13:20:21 25 the Lebanese government would be willing to reissue

13:20:24 1 travel documents. I'm not saying it's impossible, but
13:20:27 2 I'm not sure I have a comfort level that that government
13:20:30 3 either has a desire or an ability to restrict issuance
13:20:33 4 of travel documents were Mr. Akl to request them.
13:20:37 5 Whereas I maybe have a greater --

13:20:39 6 THE COURT: I suppose also, given at least
13:20:42 7 the government's view of connections with Hezbollah, the
13:20:45 8 opportunity to obtain false U.S. Lebanese or other
13:20:50 9 passports would probably be something to take into
13:20:53 10 account?

13:20:55 11 MR. HERDMAN: It's certainly a possibility.
13:20:57 12 And one other thing I wanted to point out, Your Honor,
13:21:00 13 was that -- and I think this is in line with your
13:21:03 14 question. The fact that the defendant's wife is already
13:21:09 15 out on bond I think is another significant factor here.
13:21:13 16 And it substantially increases the likelihood that they
13:21:16 17 would both as a couple pose a risk of flight. I'm
13:21:19 18 fairly comfortable as we sit here today knowing that
13:21:22 19 Amera Akl is out on bond and Hor Akl is in, that it's
13:21:27 20 less likely that she would elect to flee with him still
13:21:31 21 being detained. However, were they both out on bond,
13:21:33 22 Your Honor, I think that significantly increases the
13:21:35 23 likelihood that they would flee. And there's a couple
13:21:38 24 reasons why that is. One is they could do it together.
13:21:40 25 They could stay united as a family unit with the

13:21:43 1 children. Secondly, it also increases their ability to
13:21:48 2 coordinate a movement out of the country were they to
13:21:52 3 elect to do so. And thirdly, Hor Akl does not have the
13:21:59 4 longstanding ties to the Toledo area that Amera Akl has.
13:22:04 5 His family in the area, to the extent he has any not
13:22:07 6 purely through his marriage to Amera Akl, is, I think,
13:22:10 7 of the nature of second cousins, perhaps an uncle or
13:22:14 8 two, although I'm not entirely certain about that.
13:22:17 9 What I'm saying is that Amera Akl is, of the two members
13:22:22 10 of the couple here, two married members of the couple
13:22:26 11 here, Amera Akl is the one who has the closest
13:22:29 12 relationships here in Toledo. And I would submit she's
13:22:33 13 probably less likely to flee because she -- most of what
13:22:37 14 she knows is here in the United States. Whereas Hor
13:22:40 15 Akl, he, as a single or family unit, does not have the
13:22:45 16 close -- I'm talking immediate family ties to Toledo
13:22:48 17 that Amera Akl does.

13:22:50 18 THE COURT: Are his parents still living?

13:22:52 19 MR. HERDMAN: I believe his mother is still
13:22:54 20 alive is what Mr. Helmick's motion said. And he has a
13:22:58 21 number of siblings over in Lebanon as well. So the
13:23:04 22 fact that the couple would both be out on bond is, I
13:23:08 23 think, a significant factor.

13:23:10 24 THE COURT: In terms of where would they go
13:23:15 25 and how could they get there, what control, if any, does

13:23:19 1 the government have over whatever assets they have, cash
13:23:21 2 or whatever? Do you have any at all?

13:23:25 3 MR. HERDMAN: Well, that's actually another
13:23:27 4 issue entirely which is that --

13:23:29 5 THE COURT: If you want to address that,
13:23:30 6 that's fine.

13:23:31 7 MR. HERDMAN: There was seizure -- when
13:23:33 8 search warrants were executed, there was a seizure of
13:23:36 9 approximately \$5,000 in U.S. currency. Quite frankly,
13:23:42 10 Your Honor, we're not entirely sure where that money
13:23:44 11 came from. As I said, Mr. Akl, he was not employed
13:23:49 12 regularly -- well, actually, he was employed on somewhat
13:23:52 13 of a part-time basis at a business owned by Amera Akl's
13:23:58 14 family.

13:23:59 15 THE COURT: Mugshots?

13:24:00 16 MR. HERDMAN: Mugshots bar. That's a
13:24:02 17 fairly large amount of cash to keep around the house,
13:24:05 18 \$5,000. I suppose it's possible that that was derived
13:24:09 19 from the salary at Mugshots bar, although it seems like
13:24:12 20 kind of a high amount to have earned as either a bouncer
13:24:17 21 or bartender.

13:24:18 22 So what I think that that indicates is
13:24:21 23 that -- and that money, by the way, the government did
13:24:24 24 not know that that money, at least in that amount, was
13:24:26 25 going to be present in the house. So that was a little

13:24:30 1 bit of a surprise. And I think what that indicates is
13:24:32 2 we did not have a tremendous amount of visibility on the
13:24:35 3 cash proceeds that the Akls either had obtained or had
13:24:40 4 access to. I think the access to is the part that the
13:24:44 5 Court should take particular notice of because of maybe
13:24:48 6 some of the more established ties with Amera Akl's
13:24:53 7 family in the community here. Maybe it's possible they
13:24:56 8 would have short notice to cash. For instance, I point
13:24:59 9 out in this indictment Amera Akl was able to obtain
13:25:02 10 \$6,000 in cash on a relatively short notice in order to
13:25:05 11 pay off the Chevy Trail Blazer that was to be used to
13:25:10 12 smuggle the money over to Lebanon. And that, I think,
13:25:13 13 in the reading of the indictment, that occurred in a
13:25:16 14 couple of days, she was able to raise that amount of
13:25:18 15 money. So I guess as a general matter I don't have a
13:25:23 16 real comfort that we have an ability to seize or freeze
13:25:29 17 or even monitor all the assets that the Akls either have
13:25:33 18 or have access to.

13:25:39 19 Another point that should be clear from the
13:25:40 20 indictment is this defendant has taken numerous
13:25:43 21 opportunities to be less than forthright and honest with
13:25:46 22 members of the U.S. government. The bankruptcy fraud
13:25:49 23 charge alone establishes that he's lied in the past to
13:25:53 24 the bankruptcy judge. He lied in the past in the
13:25:56 25 petition that was filed with the Bankruptcy Court. He

13:25:58 1 also lied to Customs officials when he came back into
13:26:01 2 the United States following his March trip to Lebanon.
13:26:04 3 And even the arson charge contains some misstatements.
13:26:09 4 There's a police report that was filed on the date of
13:26:11 5 the arson. There were statements that were made to
13:26:13 6 insurance investigators that are, I guess,
13:26:16 7 quasi-governmental, even though I admit it's a private
13:26:20 8 company. But there is a defendant who really, as you
13:26:22 9 read the indictment, it's very clear that he was more
13:26:25 10 than willing to engage in untruths, false statements to
13:26:29 11 government officials to advance his own interests. And
13:26:33 12 really the conspiracy itself, that's in large measure
13:26:35 13 what the conspiracy was about, evading reporting
13:26:37 14 requirements for cash transactions that were going to go
13:26:41 15 overseas, smuggling items hidden away in vehicles that
13:26:47 16 were to be sent overseas, in essence hiding this
13:26:49 17 criminal activity as far under the radar of the
13:26:54 18 government as was possible. And I think that that's
13:26:56 19 another factor that goes to --

13:26:59 20 THE COURT: Can I jump ahead? Something
13:27:02 21 else occurs to me. And Mr. Helmick has probably not
13:27:07 22 thought about this, but you may have talked to people.
13:27:12 23 If I were to release him but not to the family residence
13:27:16 24 but to some third-party custodian's residence, but -- go
13:27:20 25 ahead. I mean, that might address that concern of

13:27:23 1 yours. At least they wouldn't be easily and readily in
13:27:29 2 contact with each other.

13:27:30 3 But go ahead. I take note of what you're
13:27:32 4 saying.

13:27:33 5 MR. HERDMAN: I think to address that point,
13:27:36 6 my understanding of the custodians that have been
13:27:38 7 proposed is that they're family members, and in some
13:27:41 8 cases joint family members. I know Amera Akl's father
13:27:45 9 has been proposed as a possible custodian. And yes, it
13:27:48 10 would limit the face-to-face interaction between the
13:27:50 11 defendants, but I don't know that it would entirely
13:27:52 12 eliminate that possibility of using a very close
13:27:55 13 relative as a go-between for certain communications.
13:27:59 14 I'm just thinking off the top of my head. That's my
13:28:04 15 reaction to it.

13:28:06 16 I think in essence Mr. Akl in particular
13:28:09 17 poses a very substantial risk of flight. And the
13:28:14 18 government did not stand up in court and make the same
13:28:17 19 argument with respect to Mrs. Akl, and for various
13:28:20 20 obvious reasons; I've gone through some of them.

13:28:24 21 We do acknowledge the fact the couple has
13:28:26 22 three -- one teenager and two younger children at home.
13:28:30 23 We're not immune to that fact. However, were Mr. Akl
13:28:34 24 to be released, the government is quite fearful that he
13:28:38 25 would pose not only a substantial risk of flight for

13:28:41 1 himself, but it would also increase the risk that Amera
13:28:44 2 Akl would seek to flee as well.

13:29:02 3 THE COURT: Mr. Helmick, would you like a
13:29:11 4 recess to determine if there might be a separate
13:29:13 5 third-party custodian? I mean, I'm going to be very
13:29:17 6 forthright with you. I think that there is a risk of
13:29:23 7 flight. If nothing else, it begins with the potential
13:29:30 8 sentence. And solely for the purpose of this hearing,
13:29:41 9 if one were to assume a conviction were to occur -- what
13:29:46 10 would the maximum potential term be if it were all to be
13:29:51 11 added up, there were convictions on all counts and
13:29:54 12 factoring in however the guidelines work and all of
13:29:57 13 that?

13:29:58 14 MR. HERDMAN: I feel comfortable saying 30
13:30:00 15 years. And that's not including the bankruptcy fraud
13:30:05 16 charges, Your Honor.

13:30:06 17 THE COURT: Or the arson charges?

13:30:08 18 MR. HERDMAN: That does include the arson.
13:30:09 19 It would be a 20-year maximum for the money laundering,
13:30:12 20 which I think would be concurrent with any conviction on
13:30:14 21 the material support charge, which is a 15-year
13:30:18 22 statutory maximum. 20 years, then I think that that
13:30:21 23 ten-year or so mandatory would have to be served,
13:30:26 24 mandatory minimum.

13:30:27 25 THE COURT: The arson is -- the only, quote,

13:30:30 1 "mandatory," close quote, is the ten-year on the arson?
13:30:40 2 Can you perhaps, if you're able to do so,
13:30:43 3 give me a list of information about the government's
13:30:46 4 anticipated proof? With regard to some of the other
13:30:48 5 charges, it's pretty clear from the complaint and
13:30:51 6 indictment what the government anticipates using by way
13:30:54 7 of evidence. But what about in terms of the arson?
13:30:57 8 I'm not sure that that's as apparent, so I think that's
13:31:00 9 important for me to get some sense.

13:31:04 10 MR. HERDMAN: At a certain point I may have
13:31:06 11 to defer to Mr. Brown on some of the particulars.

13:31:08 12 THE COURT: If it's easier to simply pass
13:31:13 13 the baton --

13:31:13 14 MR. HERDMAN: I hate to put him on the spot
13:31:15 15 like that, but that's his area of expertise. But I'll
13:31:19 16 speak generally, which is there were several admissions
13:31:22 17 by Amera Akl, very particular admissions with respect to
13:31:25 18 the vehicle that the arson was committed on: make and
13:31:29 19 model, a year of the vehicle, and the approximate time
13:31:34 20 that the vehicle was set on fire. And a very cursory
13:31:37 21 search of insurance records and police records indicated
13:31:41 22 that, in fact, there was a car that caught on fire.
13:31:45 23 Amera Akl even indicated the location where the
13:31:48 24 vehicle --

13:31:48 25 THE COURT: Out in Henry County or Fulton

13:31:51 1 County?

13:31:51 2 MR. HERDMAN: Fulton County.

13:31:54 3 And specified the road to take to get out to
13:31:56 4 where the car was set on fire. Lo and behold, all of
13:32:00 5 those statements were corroborated by the records.

13:32:03 6 Hor Akl was the individual driving the car
13:32:05 7 and filed the police report. I have to say he did not
13:32:08 8 make any specific admissions to that effect, although he
13:32:11 9 did make passing references throughout the case in
13:32:14 10 recorded conversations to the effect that he was good at
13:32:16 11 burning things, setting things on fire. Most of this
13:32:19 12 was done in a joking fashion, I have to say. But the
13:32:24 13 family spent a lot of time sitting around a fire --

13:32:27 14 THE COURT: It will be in the evidence?

13:32:28 15 MR. HERDMAN: Yes, Your Honor. And the
13:32:29 16 records -- there's also a phone call that Hor Akl made
13:32:33 17 to the insurance investigator where it's reported, he
13:32:39 18 kind of describes what happened. My initial take on
13:32:42 19 it, it seems somewhat implausible that the car just
13:32:45 20 caught on fire as he was driving it, that he had no
13:32:48 21 prior issues with it. But that's a summary of the
13:32:50 22 case.

13:32:51 23 THE COURT: So the government would contend
13:32:52 24 at the very least that there's a fair to considerable
13:32:57 25 likelihood of conviction on that charge?

13:33:00 1 MR. HERDMAN: Yes.

13:33:12 2 THE COURT: Mr. Helmick, let me start with
13:33:26 3 this. You're offering about how much in equity by the
13:33:40 4 time you get done?

13:33:41 5 MR. HELMICK: Well, Judge, my rough
13:33:43 6 calculation from what's listed here, this doesn't
13:33:48 7 incorporate the argument by the government, is a net of
13:33:54 8 about a million dollars in equity. Most of the
13:34:00 9 properties, as the Court can see, are residences.
13:34:02 10 There is one business listed.

13:34:04 11 THE COURT: Which one is the business?

13:34:08 12 MR. HELMICK: The third property down.

13:34:12 13 THE COURT: What business is that?

13:34:14 14 MR. HELMICK: That's a business owned by
13:34:15 15 Amera's uncle and Hor's cousin. It is now posted for
13:34:27 16 her as well.

13:34:28 17 Judge, is the Court still concerned about
13:34:29 18 location in terms of where he might be placed and away
13:34:32 19 from her?

13:34:33 20 THE COURT: Yes. Why don't you tell me
13:34:35 21 what the options are.

13:34:36 22 MR. HELMICK: I had anticipated this might
13:34:37 23 be a problem, but maybe not so much with non-family
13:34:40 24 custodians but with location. One possibility may be
13:34:45 25 for Amera to move in with her parents, who live here in

13:34:48 1 town, one of whom is already her custodian. And that
13:34:52 2 would mean leaving the marital household where Hor lived
13:34:56 3 and she lived prior to their arrest and that Hor would
13:34:59 4 live there with the children or with the children
13:35:02 5 part-time, depending on how we could work that out.
13:35:06 6 And that we would then have to come up with custodians
13:35:09 7 as well to cover Hor's release during that period of
13:35:14 8 time as well, but we could physically keep them apart
13:35:17 9 that way if that's what the Court desires and the Court
13:35:19 10 feels that that would be helpful. Obviously my request
13:35:22 11 was going to be that the family be reunited. I
13:35:25 12 understand the concerns the government is articulating.

13:35:28 13 THE COURT: I think it's a very fair
13:35:30 14 concern. I really do.

13:35:31 15 MR. HELMICK: Frankly, Judge --

13:35:33 16 THE COURT: I hadn't thought about it
13:35:34 17 before, but I do.

13:35:35 18 MR. HELMICK: I have to assert I think it's
13:35:37 19 pretty implausible for a lot of practical reasons, like
13:35:40 20 the Von Trapp family, they'd somehow in the middle of
13:35:43 21 the night, the five of them would somehow move across
13:35:46 22 the border and be able to leave the country. But I
13:35:49 23 agree it's not necessarily impossible, but I think it's
13:35:52 24 highly unlikely.

13:35:53 25 THE COURT: I would want to reduce that risk

13:35:55 1 to the extent possible.

13:35:57 2 MR. HELMICK: The children, by the way, are
13:35:58 3 ages 15, 7 and 4. Just so the Court is aware.

13:36:02 4 That may be something that we can engineer
13:36:04 5 or accomplish, Your Honor.

13:36:05 6 And the living situation I just described,
13:36:08 7 Amera going to her parents, Hor staying at the marital
13:36:12 8 home, I think we could absolutely work out or
13:36:15 9 accomplish.

13:36:16 10 THE COURT: Let me ask you this: How is the
13:36:18 11 family being supported? Is there a mortgage on their
13:36:21 12 house?

13:36:21 13 MR. HELMICK: Yes, Judge. They are being
13:36:23 14 supported by his and Amera's family. Judge, they are
13:36:27 15 second cousins; husband and wife and second cousins.
13:36:31 16 So he actually does have a blood relationship with some
13:36:34 17 of the people that are here. Although the government
13:36:36 18 is correct; his siblings and his mother live in Lebanon.
13:36:40 19 That much is true. But yes, Judge, I think that is
13:36:42 20 something we could accomplish if that would be
13:36:44 21 acceptable to the Court.

13:36:46 22 MR. HERDMAN: Your Honor, if I may briefly
13:36:48 23 reply on that. I wouldn't altogether discount the
13:36:50 24 possibility that Hor Akl would flee on his own. I think
13:36:54 25 that possibility is real. Although I would tell you I'm

13:36:57 1 more concerned about them -- as I think Mr. Helmick
13:37:00 2 tried to put it, them fleeing together as a family unit.
13:37:03 3 And there's one -- I'm not going to make any
13:37:06 4 representations about the status of the marital
13:37:08 5 relationship between Hor and Amera. I did want to
13:37:11 6 point out, though, I think Mr. Helmick is aware of this,
13:37:14 7 that there was a divorce petition that had been filed
13:37:17 8 about four or five years ago. At some point in time it
13:37:20 9 was withdrawn. And I just want to point that out to
13:37:22 10 the Court.

13:37:22 11 THE COURT: By whom? Do you know?

13:37:24 12 MR. HERDMAN: I don't know the specifics of
13:37:26 13 it. I could try to get those. And I don't know that
13:37:28 14 it says a whole lot about what the current status of the
13:37:31 15 relationship is. But I do think it's a factor that, to
13:37:33 16 the extent that the possibility of Hor Akl fleeing on
13:37:36 17 his own exists, I do think it's an important factor that
13:37:39 18 the Court should take into account.

13:37:50 19 THE COURT: I'm inclined to approve the
13:37:56 20 request that he be released under various conditions.
13:37:59 21 I obviously would stay any such order giving the
13:38:03 22 government the opportunity to appeal, as I assume it
13:38:06 23 would want to. Certainly there is a significant risk
13:38:11 24 of flight whenever any defendant is faced with a
13:38:16 25 potential sentence of upwards of 30 years or even

13:38:23 1 something significantly less. And do you know the
13:38:27 2 guideline range, Mr. Herdman?

13:38:29 3 MR. HERDMAN: With the application of the
13:38:31 4 terrorism enhancement, Your Honor?

13:38:33 5 THE COURT: Yes. What's the worst case
13:38:35 6 scenario in terms of the guidelines?

13:38:38 7 MR. HERDMAN: It would be at the 240-month
13:38:41 8 level.

13:38:41 9 THE COURT: So were I to remain within the
13:38:42 10 guidelines but impose the maximum, it would be 240
13:38:46 11 months? Is there a lower end to that range?

13:38:49 12 MR. HERDMAN: There is, Your Honor. I
13:38:51 13 didn't bring my handbook.

13:38:52 14 THE COURT: I don't know either. That's
13:38:54 15 why I'm asking.

13:38:55 16 MR. HERDMAN: I think I have it
13:38:56 17 electronically.

13:39:00 18 THE COURT: Do you have a guideline book
13:39:02 19 with you?

13:39:03 20 MR. MARTIN: No, I don't.

13:39:05 21 MR. HERDMAN: Mr. Brown has one. I'll get
13:39:07 22 that information for you.

13:39:19 23 Your Honor, I believe he'd be about offense
13:39:23 24 level 37, which with application of the enhancement
13:39:27 25 would also be at Category VI for Criminal History.

13:39:30 1 That range is 360 to life. And my understanding of the
13:39:34 2 operation of the Guidelines is that the effective
13:39:36 3 guideline sentence then would be 240 months, which would
13:39:41 4 be the maximum cap of the 20 year statutory max.

13:39:45 5 THE COURT: And I would have some discretion
13:39:47 6 under Booker somewhere in between ten years and 20
13:39:50 7 years?

13:39:51 8 MR. HERDMAN: Certainly.

13:39:57 9 THE COURT: Well, perhaps not in a
13:40:01 10 particularly orderly manner, let me explain particularly
13:40:05 11 for the government so it can respond what it is that
13:40:09 12 makes me believe that the risk of flight can be
13:40:14 13 minimized, by no means eliminated, given the proposed
13:40:21 14 conditions and others that I would contemplate imposing.

13:40:30 15 The people who know this man best of any of
13:40:33 16 us, six of them if I count correctly, at least in terms
13:40:39 17 of owners of six properties -- eight properties --

13:40:47 18 MR. HELMICK: Correct, Your Honor.

13:40:47 19 THE COURT: -- seven of which are family
13:40:50 20 residences, are all willing to say: We know this man;
13:40:56 21 we know what he is charged with.

13:40:59 22 I assume they know the significance of the
13:41:04 23 charge, not just in terms of the potential outcome, but
13:41:08 24 in terms of the mindset that manifests that.
13:41:18 25 Nonetheless, we are willing to post our family homes.

13:41:24 1 And before accepting that offer I would talk
13:41:28 2 with each of them who are here and see to it that the
13:41:31 3 others who are not were made fully aware that in the
13:41:37 4 event of the breach of any material condition of
13:41:42 5 release, and that wouldn't be limited just to flight,
13:41:46 6 but any material substantial condition of release, every
13:41:51 7 one of those properties would be taken by the U.S.
13:41:54 8 government and sold and lost. And I wouldn't care what
13:41:58 9 the consequences were for any of the families whose
13:42:02 10 homes they were losing. As I said before, accepting
13:42:10 11 that proffer, that is what would satisfy myself -- I
13:42:18 12 would be satisfied that they understood that and that
13:42:21 13 nonetheless they had enough confidence in the likelihood
13:42:26 14 of appearance and full and complete compliance with the
13:42:31 15 other conditions of release that they still are willing
13:42:34 16 to post their property and run that risk.

13:42:45 17 Among the other conditions that I would
13:42:47 18 include, and I listened to both the government both in
13:42:54 19 opposition but also in terms of alternatives, I would
13:43:01 20 require them to live in separate -- husband and wife to
13:43:04 21 live in separate residences. I would require both to
13:43:07 22 have responsible adult custodians 24/7. Yes, I
13:43:15 23 understand there's a sister and mother in the house all
13:43:20 24 the time, at least one of them present all the time. It
13:43:27 25 would be, in effect, house arrest. There would be no

13:43:30 1 departure from the premises without prior notice to and
13:43:33 2 approval of the Pretrial Services and Probation Officer.
13:43:38 3 In any event, any such absence would be limited solely
13:43:42 4 to coming to court, consulting with counsel, securing
13:43:49 5 medical treatment, and attending religious services.
13:43:55 6 All of that would have to require it be with the prior
13:43:59 7 approval of the Pretrial Services Officer and/or, if
13:44:01 8 that officer were in doubt, me.

13:44:05 9 I also think it would be appropriate for the
13:44:07 10 government to be notified in advance so if it had any
13:44:11 11 concern or objection, it could be heard in that regard.

13:44:21 12 There would be -- use of a telephone would
13:44:28 13 be strictly limited to any land line phone. I would
13:44:32 14 not permit them to have any cell phones or access to any
13:44:36 15 cell phones. And I would authorize the government --
13:44:40 16 or conditioned upon their consenting or at least the
13:44:45 17 person, the subscriber, so the land line phone's being
13:44:49 18 monitored by the government as and if the government so
13:44:52 19 desires. I would deem that to be adequate consent for
13:44:57 20 the government to comply with Title III so that
13:44:59 21 everybody involved understands that the likelihood that
13:45:02 22 the telephones were being monitored was very
13:45:07 23 substantial. The same would be true with regard to any
13:45:10 24 and all computers in the household that could be used to
13:45:14 25 access the internet or engage in e-mail traffic, the

13:45:18 1 owners of those computers would be required to consent
13:45:23 2 to the government monitoring their computer lines. In
13:45:28 3 any event, there would be absolutely no use of a
13:45:32 4 telephone or computer by either Mrs. Akl or Mr. Akl.
13:45:37 5 And I would make very clear to the persons posting the
13:45:41 6 property if it came to my attention that that condition
13:45:44 7 was breached, that property would be taken. End of
13:45:47 8 discussion. That would be, in my view, a material
13:45:52 9 breach of the conditions of release.

13:45:56 10 Both defendants will be required to make a
13:45:59 11 full and complete disclosure of any and all financial
13:46:02 12 assets and resources and, if the government so desires,
13:46:07 13 through Pretrial Services an accounting for expenditures
13:46:11 14 on a periodic basis, whatever the government would want
13:46:16 15 to have. That condition would be without prejudice to
13:46:20 16 either defendant's right to contend that there might be
13:46:24 17 Fifth Amendment implications to that kind of disclosure,
13:46:27 18 in which case I would probably permit that to be -- I
13:46:31 19 would require that to be made, but to be made under seal
13:46:37 20 for the review of the Pretrial Services Officer, and
13:46:40 21 only in the event that the Pretrial Services Officer had
13:46:42 22 any concern about that report will it be provided to me;
13:46:49 23 and then if I thought it was appropriate to take action,
13:46:53 24 I would do so; and/or if I thought the government should
13:46:56 25 be aware of it, I'd give notice to the defendants before

13:46:59 1 making that disclosure and give them an opportunity to
13:47:03 2 be heard.

13:47:05 3 Obviously any passports or travel documents,
13:47:08 4 including driver's licenses, if not already in the
13:47:11 5 possession of the government, would have to be provided.

13:47:21 6 The government would be -- any such release
13:47:25 7 would be conditioned upon anybody who had a cell phone
13:47:30 8 in his or her possession in those residences would have
13:47:34 9 to consent to the government monitoring that cell phone
13:47:43 10 as well. Alternatively, if the government thought it
13:47:47 11 was proper and necessary, I would simply prohibit any
13:47:49 12 cell phone usage by anybody in the residence. We can
13:47:53 13 discuss that.

13:47:57 14 And, of course, I would have to -- the
13:47:59 15 government would have to have an opportunity to
13:48:03 16 investigate the background of any proposed third party
13:48:06 17 custodian, any additional third party custodian and be
13:48:09 18 heard before the conditions would take effect and
13:48:14 19 release could occur.

13:48:21 20 I think that that set and sort of conditions
13:48:29 21 suffice to insure the reasonable likelihood of
13:48:33 22 appearance at trial on the part of both defendants.
13:48:39 23 I'm not unaware of the risks of flight. But on the
13:48:43 24 other hand, as I say, I'm giving considerable attention
13:48:50 25 to the fact that many people who know Mr. Akl well are

13:48:57 1 willing to post what I assume is a significant portion
13:49:03 2 of their material possessions to secure his appearance.

13:49:15 3 Though something else occurs to me. And
13:49:18 4 that is perhaps that premise should be confirmed by
13:49:23 5 having those individuals placed under oath and
13:49:26 6 questioned with regard to whatever financial
13:49:29 7 resources/assets that they have. If it were to turn
13:49:33 8 out, for example, that there were substantial other
13:49:40 9 assets on hand and available which, for whatever reason,
13:49:45 10 were not being posted as security, that might well cause
13:49:49 11 me to take a different view of things.

13:49:57 12 So that's what I have in mind. Mr.
13:49:59 13 Herdman, understanding your objection and likelihood to
13:50:03 14 appeal, nonetheless, in terms of what I'm proposing, if
13:50:09 15 you wish to be heard, by all mean.

13:50:13 16 MR. HERDMAN: Thank you, Your Honor. I do
13:50:14 17 have a couple of just follow-up questions. I was
13:50:17 18 trying to listen closely, but I wasn't sure if I caught
13:50:20 19 it. Did you actually order electronic monitoring of
13:50:23 20 the defendant?

13:50:24 21 THE COURT: Sure. Of course. Didn't --

13:50:26 22 MR. HERDMAN: When you said home arrest, I
13:50:28 23 assumed you meant that.

13:50:30 24 THE COURT: Either GPS or electronic
13:50:34 25 monitoring, telephone, land line or whatever.

13:50:36 1 MR. HERDMAN: I think this would be covered
13:50:38 2 under the order of computers, but in this day and age I
13:50:40 3 know there's Voice over Internet, Skype --

13:50:44 4 THE COURT: Same thing. Any kind of
13:50:45 5 communication modality. I would give the government the
13:50:49 6 opportunity to draft, without prejudice to your right to
13:50:52 7 appeal; I understand that fully. But nonetheless, to
13:50:55 8 the extent the government would desire to propose
13:50:58 9 language to be included in whatever order, also whatever
13:51:03 10 acknowledgment and consent the custodians would sign, by
13:51:07 11 all means; absolutely. Any mode of communication. I
13:51:11 12 want the government to have the opportunity to listen
13:51:15 13 in, read along, basically pay attention and to be aware.

13:51:19 14 MR. HERDMAN: And similar, we had an issue
13:51:23 15 with respect to Amera Akl. There is an order in place
13:51:26 16 that restricts her -- I'm sorry, that restricts her
13:51:30 17 ability to communicate with the Lebanese consulate, any
13:51:35 18 Lebanese consulate or any representative of the Lebanese
13:51:39 19 government is I think how broadly it's written.

13:51:41 20 THE COURT: And I would also require the
13:51:44 21 custodians to keep a register of all persons outside the
13:51:52 22 home, outside the family with whom there's any
13:51:55 23 communications --

13:51:57 24 MR. HERDMAN: Okay.

13:51:58 25 THE COURT: -- of any kind whatsoever;

13:51:59 1 e-mail, in person.

13:52:03 2 MR. HERDMAN: I do have some questions with
13:52:04 3 respect to the property that's been put up, similar
13:52:07 4 questions that were posed. I don't know if you wanted
13:52:10 5 to hear testimony first, but there was one thing I
13:52:14 6 wanted to point out was that I'm not quite certain that
13:52:16 7 all of these properties are, in fact, the residences of
13:52:19 8 the posters.

13:52:21 9 THE COURT: We'll find out whose they are.
13:52:24 10 And if they're not, why they won't put up their own
13:52:27 11 residences. That's what matters to me. If somebody's
13:52:30 12 willing to put a house up for somebody, that's a pretty
13:52:34 13 significant sign of trust, particularly when you could
13:52:38 14 check my record and I've taken property. And I don't
13:52:41 15 care. I don't care who's put out on the street in a
13:52:46 16 bassinet or wheelchair. It doesn't matter to me.

13:52:50 17 MR. HERDMAN: After that examination is
13:52:51 18 conducted by the Court I have some questions about the
13:52:53 19 practicalities or how this is going to operate with
13:52:56 20 respect to the actual lien that would be filed. Is it
13:52:59 21 going to be a joint -- would it apply jointly,
13:53:02 22 severally? Are there going to be two separate liens
13:53:06 23 placed on the property?

13:53:07 24 THE COURT: I would think probably. I
13:53:08 25 would think so.

13:53:09 1 MR. HERDMAN: That would be the government's
13:53:11 2 preference.

13:53:12 3 THE COURT: Yeah. Because, you know, it
13:53:15 4 would require -- for the lien to be released it would
13:53:17 5 require compliance by both defendants.

13:53:20 6 MR. HERDMAN: Okay. That's all I have.

13:53:37 7 THE COURT: Mr. Helmick, in terms of a third
13:53:39 8 party custodian, what I'm moving towards would be
13:53:43 9 accepting your suggestion that -- well, that they live
13:53:47 10 separately, and it probably makes better sense for the
13:53:57 11 wife and children to be living with her mother or family
13:54:04 12 and for him to be back in the family home. What I want
13:54:08 13 to make sure is there is or are suitable adult
13:54:13 14 custodians 24/7. And if you want to take a few minutes
13:54:18 15 to try to make those arrangements, or alternatively if
13:54:23 16 they cannot be made today, then we can resume probably
13:54:25 17 Friday morning; I think I have some time. I'm leaving
13:54:28 18 this weekend for three weeks. I'd like to get this
13:54:31 19 done before then.

13:54:33 20 MR. HELMICK: I know, Your Honor. My
13:54:36 21 concern is I think you have a plane to catch today.

13:54:39 22 THE COURT: I still have a few more hours.

13:54:41 23 MR. HELMICK: I do need a little time with
13:54:43 24 the family to discuss the logistics before we can move
13:54:45 25 forward today. Would you like us to come back Friday,

13:54:49 1 and hopefully I can have my ducks in a row?

13:54:52 2 THE COURT: Let me suggest this: Why don't
13:54:54 3 I begin with the various -- to the extent that the
13:54:58 4 people who are posting property are here, let me have
13:55:01 5 them come forward, be sworn, questioned by me,
13:55:06 6 questioned by you, questioned by Mr. Herdman. And
13:55:11 7 let's put it this way: If one or more of them presents
13:55:15 8 a problem, then that may moot doing anything else.

13:55:21 9 MR. HELMICK: Fair enough.

13:55:22 10 THE COURT: Probably not. But I think
13:55:24 11 that's the place to begin is to confirm the
13:55:26 12 understanding and willingness and consequences of
13:55:30 13 posting property. And also for the government and
13:55:35 14 myself to find out what else they might have; and if
13:55:39 15 they do, why it's not being put up.

13:55:44 16 MR. HELMICK: Very well. Would you like to
13:55:47 17 take testimony then at this time?

13:55:49 18 THE COURT: I think I should.

13:55:51 19 MR. HELMICK: The defendants would first
13:55:53 20 call Akrum Mahmoud.

13:56:03 21 THE COURT: Do you have a copy, of the list
13:56:07 22 for Tracy?

13:56:18 23 Sir, if you'll come forward and have a seat.

13:56:26 24 (The witness was sworn by the clerk.)

13:56:34 25 THE COURT: Will you tell me your name,

13:56:36 1 please.

13:56:37 2 THE WITNESS: Akrum Mahmoud.

13:56:38 3 THE COURT: Mr. Mahmoud, where do you live?

13:56:42 4 THE WITNESS: 3617 Barcelona, Toledo, Ohio.

13:56:53 5 THE COURT: What are those premises? Is
13:56:57 6 that a family home?

13:56:58 7 THE WITNESS: My residence, yes, sir.

13:56:59 8 THE COURT: Pardon me?

13:57:00 9 THE WITNESS: That's my residence, yes, sir.

13:57:02 10 THE COURT: Who lives there with you?

13:57:04 11 THE WITNESS: My family.

13:57:05 12 THE COURT: How many are there? I don't
13:57:07 13 need the names.

13:57:08 14 THE WITNESS: My wife and my five kids.

13:57:11 15 THE COURT: How long have you owned that
13:57:12 16 property?

13:57:13 17 THE WITNESS: Fifteen years.

13:57:14 18 THE COURT: And you owe about \$65,000?

13:57:17 19 THE WITNESS: Yes, sir.

13:57:19 20 THE COURT: In today's market, but 135
13:57:22 21 maybe.

13:57:23 22 THE WITNESS: Something like that.

13:57:24 23 THE COURT: In that neighborhood. Okay.

13:57:27 24 And you're current on your mortgage?

13:57:30 25 THE WITNESS: Yes.

13:57:33 1 THE COURT: Have you ever been delinquent on
13:57:35 2 the mortgage?

13:57:36 3 THE WITNESS: No, sir.

13:57:36 4 THE COURT: Are you employed?

13:57:37 5 THE WITNESS: Yes, sir.

13:57:38 6 THE COURT: Where do you work?

13:57:40 7 THE WITNESS: Jack's Bar and Grill, 3560

13:57:44 8 Dorr.

13:57:44 9 THE COURT: How long have you worked there?

13:57:46 10 THE WITNESS: Eighteen years.

13:57:47 11 THE COURT: Does your wife work?

13:57:48 12 THE WITNESS: Part-time with me, yes, sir.

13:57:50 13 THE COURT: Are you an employee of that
13:57:51 14 establishment or do you own it?

13:57:53 15 THE WITNESS: I own it and I work there.

13:57:55 16 THE COURT: Both?

13:57:56 17 THE WITNESS: Yes, sir.

13:57:59 18 THE COURT: Where were you born?

13:58:00 19 THE WITNESS: In Lebanon.

13:58:01 20 THE COURT: And where are you a citizen?

13:58:03 21 THE WITNESS: I have both citizenship,
13:58:06 22 United States and Lebanese.

13:58:07 23 THE COURT: You're an American citizen?

13:58:09 24 THE WITNESS: Yes, sir.

13:58:09 25 THE COURT: All your children born here?

13:58:11 1 THE WITNESS: Yes, sir.

13:58:11 2 THE COURT: You're acquainted with Mr. Hor
13:58:15 3 Akl?

13:58:16 4 THE WITNESS: Yes.

13:58:16 5 THE COURT: He is -- do you have any kind of
13:58:19 6 relationship?

13:58:20 7 THE WITNESS: He's my brother-in-law.

13:58:27 8 THE COURT: Do you have other assets, let's
13:58:30 9 say in excess of \$50,000? In other words, do you own
13:58:36 10 the place that you -- where you work, are you the owner
13:58:41 11 of that?

13:58:41 12 THE WITNESS: I'm owner of the business; I
13:58:43 13 rent the property.

13:58:44 14 THE COURT: You rent the property. Do you
13:58:45 15 have any stocks or bonds or investments of any kind
13:58:50 16 whatsoever?

13:58:51 17 THE JUROR: No, sir.

13:58:52 18 THE COURT: I'm talking about substantial.
13:58:54 19 I'm not talking about a few thousand dollars here or
13:58:57 20 there.

13:58:59 21 Do you own or have any interest in any other
13:59:03 22 real estate of any kind?

13:59:04 23 THE WITNESS: Yes, 805 East Manhattan.

13:59:07 24 THE COURT: What is that?

13:59:08 25 THE WITNESS: Rental property business,

13:59:10 1 mechanics shop.

13:59:12 2 MR. HELMICK: Judge that's the third
13:59:13 3 property listed on the list. I'm sorry.

13:59:16 4 THE COURT: Sure. Right here. And you're
13:59:18 5 willing to post that as well?

13:59:20 6 THE WITNESS: Yes, I own it. My brother
13:59:22 7 and I will own that property.

13:59:24 8 THE COURT: Is your brother willing? Is he
13:59:27 9 also going to be a joint signatory?

13:59:29 10 MR. HELMICK: Yes, Your Honor.

13:59:30 11 THE COURT: And that's almost free and
13:59:32 12 clear, right?

13:59:34 13 THE WITNESS: Yes, sir.

13:59:35 14 THE COURT: Do you have any other interest
13:59:39 15 in any other real estate of any kind?

13:59:42 16 THE WITNESS: No, sir.

13:59:43 17 THE COURT: And you are willing to post both
13:59:46 18 of these properties to secure your brother-in-law's
13:59:51 19 appearance at all further court proceedings?

13:59:57 20 THE WITNESS: Yes.

13:59:57 21 THE COURT: And also that he doesn't commit
13:59:59 22 any criminal offenses while released? You were here
14:00:05 23 when I was talking earlier, I assume?

14:00:07 24 THE WITNESS: Yes.

14:00:07 25 THE COURT: And do you understand that your

14:00:11 1 brother-in-law will have several things that he will
14:00:15 2 have to do? Do you understand that?

14:00:18 3 THE DEFENDANT: Yes.

14:00:19 4 THE COURT: And also the people who are what
14:00:21 5 I call his third party custodians, do you understand
14:00:24 6 that?

14:00:24 7 THE DEFENDANT: Yes.

14:00:25 8 THE COURT: The same arrangement with your
14:00:27 9 sister and your mother; is that right? Mrs. Akl is your
14:00:30 10 sister?

14:00:31 11 THE WITNESS: My sister-in-law.

14:00:33 12 THE COURT: You understand the arrangements
14:00:34 13 with her mother and her sister having to be with her,
14:00:37 14 one of them?

14:00:39 15 THE WITNESS: Yes.

14:00:39 16 THE COURT: And there will be somebody like
14:00:42 17 that if this works out for Mr. Akl. And that person
14:00:48 18 will have certain duties and responsibilities that if
14:00:54 19 that person does not fulfill, I can and will take your
14:00:59 20 property. Do you understand that?

14:01:02 21 THE WITNESS: Yes.

14:01:03 22 THE COURT: In other words, it's not just
14:01:04 23 trusting Mr. Akl to do the right thing, but trusting
14:01:08 24 whoever is responsible as his custodian to do the right
14:01:11 25 thing. Do you understand that?

14:01:12 1 THE WITNESS: Yes.

14:01:13 2 THE COURT: And knowing that are you still
14:01:14 3 willing to put the property up?

14:01:16 4 THE WITNESS: Yes.

14:01:17 5 THE COURT: And to run the risk of losing it
14:01:19 6 completely?

14:01:19 7 THE WITNESS: Yes.

14:01:23 8 THE COURT: Mr. Herdman or Mr. Helmick, any
14:01:26 9 further questions?

14:01:27 10 MR. HELMICK: No, Your Honor.

14:01:27 11 THE COURT: Mr. Herdman, any questions?

14:01:29 12 MR. HERDMAN: I think I have three
14:01:31 13 questions, Your Honor.

14:01:31 14 - - -

14:01:31 15 AKRUM MAHMOUD, CROSS-EXAMINATION

14:01:33 16 BY MR. HERDMAN:

14:01:33 17 Q. How long have you known Amera Akl?

14:01:35 18 A. Since I came to the States, 1976.

14:01:38 19 Q. Since you came to the U.S. in 1976?

14:01:41 20 A. '76, yes.

14:01:42 21 Q. How long have you known Mr. Akl?

14:01:44 22 A. Sixteen years, 17 years. Since he came to the
14:01:48 23 States.

14:01:50 24 Q. And Amera Akl is sisters with your wife?

14:01:56 25 A. Yes.

14:01:56 1 THE COURT: So you don't have any direct
14:01:57 2 relationship with Mr. Akl?

14:01:59 3 THE WITNESS: With Mr. Akl, no.

14:02:01 4 BY MR. HERDMAN:

14:02:01 5 Q. You do have a direct relationship with Mrs. Akl?

14:02:04 6 A. Yes.

14:02:04 7 Q. What is that?

14:02:05 8 A. My first cousin.

14:02:06 9 Q. And do you own any property overseas,
14:02:09 10 specifically in Lebanon?

14:02:10 11 A. No.

14:02:10 12 Q. Do you have any bank accounts, any kind of assets
14:02:13 13 at all overseas in Lebanon?

14:02:16 14 A. No.

14:02:19 15 Q. You understand that if Mr. Akl flees and Mrs. Akl
14:02:23 16 stays here that your property still would be forfeited?

14:02:26 17 A. Yes.

14:02:27 18 Q. He doesn't have to leave with her; you're relying
14:02:30 19 on him alone to this obligation.

14:02:34 20 A. Yes.

14:02:35 21 MR. HERDMAN: I have nothing further.

14:02:36 22 THE COURT: Also let me say that if that
14:02:38 23 were to happen, that the conditions of release would no
14:02:44 24 longer be satisfied as to Mrs. Akl, and she would be
14:02:47 25 placed in custody -- I'm looking at Mr. Herdman. If

14:02:53 1 that would happen in that regard --

14:02:55 2 MR. HERDMAN: The government would certainly
14:02:56 3 make an application.

14:02:57 4 THE COURT: It would happen.

14:03:00 5 I jumped around a little bit on you, sir.

14:03:02 6 I apologize.

14:03:03 7 If you lost your property because he fled, I
14:03:09 8 would put her in jail; do you understand that?

14:03:13 9 THE WITNESS: Okay. Yes.

14:03:15 10 THE COURT: Mr. Helmick, anything?

14:03:18 11 MR. HELMICK: I don't think so, Your Honor.

14:03:18 12 - - -

14:03:18 13 AKRUM MAHMOUD, REDIRECT EXAMINATION

14:03:18 14 BY MR. HELMICK:

14:03:20 15 Q. May I just ask, sir, the property at 3617
14:03:24 16 Barcelona's owned jointly between you and your wife?

14:03:27 17 A. Yes.

14:03:27 18 Q. She's here today?

14:03:29 19 A. No, she's with her sister.

14:03:31 20 Q. But she was willing, was she not, to post the
14:03:34 21 property on behalf of Amera?

14:03:36 22 A. Yes, she was.

14:03:37 23 Q. She is now willing as well to sign and allow your
14:03:40 24 residence to be posted as well for Hor?

14:03:42 25 A. Yes.

14:03:44 1 THE COURT: Okay.

14:03:45 2 MR. HERDMAN: Your Honor, just so you're
14:03:47 3 aware, Attaya Mahmoud did testify at the previous bond
14:03:51 4 hearing. So I'm satisfied that would be the case.

14:03:56 5 THE COURT: Do you have any questions of me?

14:03:58 6 THE WITNESS: No, sir.

14:03:59 7 THE COURT: You may step down. Thank you.

14:04:10 8 MR. HELMICK: Your Honor, unless there's a
14:04:12 9 reason to do otherwise, I'll just go in order of the
14:04:15 10 chart. We're on the second property. That would be
14:04:18 11 Ibrahim Ismail. I'd point out, Your Honor, that Ibrahim
14:04:28 12 is the second property and the fourth property.

14:04:39 13 (The witness was sworn by the clerk.)

14:04:51 14 THE COURT: Tell me your name, please.

14:04:54 15 THE WITNESS: Ibrahim Ismail.

14:04:56 16 THE COURT: Where do you live, Mr. Ismail?

14:04:59 17 THE WITNESS: 3426 Kenwood Boulevard.

14:05:04 18 THE COURT: In Toledo?

14:05:05 19 THE WITNESS: Toledo.

14:05:06 20 THE COURT: That's your family residence?

14:05:08 21 THE WITNESS: Yes, me and my wife and my
14:05:10 22 kids.

14:05:10 23 THE COURT: How many children do you have?

14:05:12 24 THE WITNESS: I have five; four boys, one
14:05:13 25 girl.

14:05:16 1 THE COURT: And you have a mortgage of about
14:05:18 2 \$33,000 on that property?

14:05:21 3 THE WITNESS: Just about. Not quite, a
14:05:22 4 little less.

14:05:26 5 THE COURT: Your best guess, fair market
14:05:28 6 value, is about \$240,000?

14:05:31 7 THE WITNESS: It's more than that, but I
14:05:33 8 would say.

14:05:35 9 THE COURT: Have you ever been delinquent in
14:05:37 10 the mortgage?

14:05:37 11 THE WITNESS: No.

14:05:38 12 THE COURT: You have only one mortgage?

14:05:40 13 THE WITNESS: Yes.

14:05:41 14 THE COURT: And with regard -- you also own
14:05:50 15 3243 Houghton?

14:05:53 16 THE WITNESS: 3243 Houghton Drive.

14:05:55 17 THE COURT: That's your sister's family
14:05:57 18 residence?

14:05:57 19 THE WITNESS: It's a duplex. My sister
14:05:59 20 live there, and I have the upstairs rented.

14:06:01 21 THE COURT: In any event, you have a
14:06:06 22 family member who lives in that house?

14:06:08 23 THE WITNESS: Yes.

14:06:09 24 THE COURT: So if I took that, she'd be
14:06:11 25 out --

14:06:12 1 THE WITNESS: Yes.

14:06:14 2 THE COURT: -- as well.

14:06:16 3 And you -- Mr. Helmick, is it two mortgages
14:06:22 4 on that?

14:06:23 5 MR. HELMICK: Judge, I think the correct
14:06:25 6 numbers -- the property value is correct as listed.
14:06:29 7 The mortgage balance is only \$15,000. That \$80,000 in
14:06:34 8 parentheses is listed because it's what appeared on the
14:06:38 9 official court document that was filed. I think that's
14:06:41 10 a mortgage that's been satisfied. So there's only
14:06:44 11 about \$15,000.

14:06:45 12 THE COURT: How much do you owe on that
14:06:46 13 property?

14:06:49 14 THE WITNESS: Just what he said, about
14:06:52 15 \$15,000.

14:06:52 16 THE COURT: So you have about \$90,000 in
14:06:54 17 equity, just one mortgage?

14:06:57 18 THE WITNESS: Yes.

14:06:57 19 THE COURT: Ever been delinquent on that
14:06:58 20 mortgage?

14:06:59 21 THE WITNESS: No.

14:07:00 22 THE COURT: I should have asked Mr. Mahmoud,
14:07:03 23 but do you have any judgments against you?

14:07:05 24 THE WITNESS: No.

14:07:06 25 THE COURT: Engaged in any litigation of any

14:07:08 1 kind?

14:07:08 2 THE WITNESS: No.

14:07:09 3 THE COURT: Where were you born?

14:07:10 4 THE WITNESS: I was born in Lebanon.

14:07:12 5 THE COURT: And what country or countries
14:07:13 6 are you a citizen?

14:07:15 7 THE WITNESS: United States of America.

14:07:17 8 THE COURT: And are you employed?

14:07:19 9 THE WITNESS: I'm retired right now. I
14:07:23 10 don't work right now. I'm retired.

14:07:27 11 THE COURT: And do you own any other real
14:07:33 12 estate either in this country or elsewhere?

14:07:37 13 THE WITNESS: I do own some other property
14:07:39 14 here. My sons run the business, and I just -- that's
14:07:42 15 their livelihood, and I'm not going to -- and I own 903
14:07:48 16 North Westwood.

14:07:49 17 THE COURT: And what is that?

14:07:51 18 THE WITNESS: We have a car lot over there,
14:07:53 19 repair and sale.

14:07:55 20 THE COURT: Why won't you put that up to
14:07:58 21 secure your --

14:07:59 22 THE WITNESS: It's my kids', and they run
14:08:01 23 the business. I'm retired, and I don't want to
14:08:03 24 interfere with their business. And I promise them
14:08:07 25 that's theirs.

14:08:08 1 THE COURT: I understand that. But you own
14:08:13 2 it, or do they own it with you?

14:08:14 3 THE WITNESS: Well, I own the property.
14:08:16 4 It's a corporation.

14:08:19 5 THE COURT: What's the value of that
14:08:20 6 property would you think?

14:08:26 7 THE WITNESS: Never appraise it. I have it
14:08:28 8 for a long time. I bought it from a sheriff auction.
14:08:31 9 It's worth some good amount of money, maybe a couple
14:08:36 10 hundred thousand.

14:08:38 11 THE COURT: Do you owe a mortgage on that?

14:08:40 12 THE WITNESS: No.

14:08:46 13 THE COURT: Do you own any other real estate
14:08:48 14 anywhere?

14:08:49 15 THE WITNESS: I just acquire another
14:08:52 16 building, but still I'm not, you know, it's --

14:08:55 17 THE COURT: Where is that?

14:08:56 18 THE WITNESS: On Berdan.

14:09:00 19 THE COURT: The address?

14:09:02 20 THE WITNESS: I don't recall the address.

14:09:03 21 THE COURT: Somewhere on Berdan. What's
14:09:06 22 its value, equity value?

14:09:08 23 THE WITNESS: I just bought it on taxes
14:09:11 24 sale.

14:09:11 25 THE COURT: A tax foreclosure?

14:09:13 1 THE WITNESS: Yes.

14:09:20 2 THE COURT: Are you going to rent that?

14:09:22 3 THE WITNESS: Well, we haven't done
14:09:23 4 anything. I'm negotiating with the city to see what
14:09:26 5 we're going to do.

14:09:29 6 THE COURT: Do you have investments or other
14:09:35 7 financial resources of any kind?

14:09:38 8 THE WITNESS: No, I lost all of it in that
14:09:41 9 little mess we have -- most of it, let's put it that
14:09:45 10 way.

14:09:48 11 THE COURT: Are you getting a pension?

14:09:51 12 THE WITNESS: Yes, I do get my pension.

14:10:00 13 THE COURT: Mr. Herdman or Mr. Helmick, any
14:10:03 14 questions?

14:10:03 15 MR. HERDMAN: I do, Your Honor.

14:10:03 16 - - -

14:10:03 17 IBRAHIM ISMAIL, CROSS-EXAMINATION

14:10:03 18 BY MR. HERDMAN:

14:10:08 19 Q. Mr. Ismail, good to see you again. How are you?

14:10:11 20 A. Good, thank you.

14:10:11 21 Q. How long have you known Mr. Akl for?

14:10:14 22 A. I know him -- I used to travel to Lebanon. I
14:10:19 23 know him when he was a little kid. Since he be in
14:10:22 24 America and he marry my niece. I know him since he been
14:10:26 25 here; 17, 18 years. I don't exactly know. But I know

14:10:29 1 him even when he was child.

14:10:32 2 Q. And I presume you've known Amera Akl all her
14:10:34 3 life?

14:10:34 4 A. She's my niece, yes.

14:10:36 5 Q. Did you say -- I may have just misheard this, but
14:10:39 6 did you say that you owe \$1,500 on your --

14:10:43 7 THE COURT: \$15,000.

14:10:46 8 Q. Okay. And you are solely a citizen of the United
14:10:50 9 States?

14:10:50 10 A. Yes. Only citizenship I have. My dad was
14:10:52 11 here. We were born in Lebanon. I don't have any other
14:10:56 12 citizenship but American citizenship.

14:10:58 13 Q. Do you own any property in Lebanon?

14:11:01 14 A. We have some inheritance from my dad. It messed
14:11:05 15 up over there. We don't get anything out of it. It's
14:11:07 16 just there.

14:11:08 17 Q. That's a family residence; is that what it is?

14:11:10 18 A. Yes, I do have family --

14:11:13 19 Q. The property at 9037 North Westwood you said is a
14:11:17 20 car lot. Do you derive any portion of your son's income
14:11:20 21 from that property?

14:11:21 22 A. No, I don't take any money from that.

14:11:23 23 THE COURT: Do you get rent from it?

14:11:25 24 THE WITNESS: No.

14:11:28 25 BY MR. HERDMAN:

14:11:28 1 Q. And the new property, what kind of property is
14:11:31 2 that? Another car lot?

14:11:32 3 A. It's an old building, and it need a lot of
14:11:35 4 repair, and probably, yeah.

14:11:38 5 Q. So you're not getting income from that property?

14:11:41 6 A. No.

14:11:42 7 Q. And the rental property at 3243, you said your
14:11:46 8 sister lives there?

14:11:47 9 A. Yes.

14:11:48 10 Q. Do you get some sort of income from that
14:11:50 11 property?

14:11:51 12 A. Yes, I guess around 700, 800 bucks every month
14:11:56 13 from upstairs and downstairs.

14:12:02 14 MR. HERDMAN: Just a moment, Your Honor, if
14:12:04 15 you don't mind.

14:12:05 16 (Discussion had off the record.)

14:12:09 17 MR. HERDMAN: Nothing further. Thank you.

14:12:11 18 THE COURT: Is Mr. Mahmoud still here?

14:12:18 19 MR. MAHMOUD: Yes, sir.

14:12:21 20 THE COURT: Sir, are you engaged in any
14:12:23 21 lawsuits?

14:12:24 22 THE WITNESS: No, sir.

14:12:24 23 THE COURT: Do you have any judgments
14:12:25 24 against you?

14:12:26 25 THE WITNESS: No, sir.

14:12:27 1 THE COURT: Mr. Helmick, questions?

14:12:28 2 MR. HELMICK: No, I don't think so, Your
14:12:30 3 Honor. I'll just note for the record he's my neighbor
14:12:34 4 on Kenwood Boulevard. I will note that. I would hate
14:12:37 5 to lose him as my neighbor.

14:12:40 6 THE COURT: That makes me question the fair
14:12:43 7 market value of your property.

14:12:45 8 MR. HELMICK: Thanks, Judge.

14:12:47 9 THE COURT: Why won't you put up -- I'm a
14:12:51 10 little troubled, quite candidly, that you won't put up
14:12:53 11 the other property. I mean, I'm trying to --

14:12:56 12 THE WITNESS: It's my kids' livelihood, and
14:13:00 13 they asked me to put my house and the residence, my
14:13:04 14 business. I don't want to mess with my business. If
14:13:06 15 my kids tomorrow want to get a loan, want to do
14:13:09 16 something, I don't want to -- that's the only reason.
14:13:12 17 They're going to get married; they might need a little
14:13:15 18 leeway, something. I want to make sure they are able to
14:13:19 19 get out of it what they can. I don't want -- in case
14:13:24 20 we're going to sell it tomorrow. If they want to sell
14:13:27 21 the business, change places, you know, I don't want to
14:13:30 22 hold them.

14:13:30 23 THE COURT: Basically, if I understand
14:13:32 24 correctly, it may be in your name over in the county
14:13:37 25 recorder's office, but as far as you're concerned,

14:13:40 1 that's the kids'?

14:13:42 2 THE WITNESS: Exactly. I have two sons run
14:13:44 3 the business over there. And whatever they get out of
14:13:47 4 it, that's theirs.

14:13:48 5 THE COURT: But if they said, Pop, we want
14:13:49 6 to sell it, would you give them the money for it? Would
14:13:52 7 you give them the money if you sold it?

14:13:54 8 THE WITNESS: Absolutely. I've given my
14:13:57 9 word that's theirs.

14:13:58 10 THE COURT: The only thing you haven't done
14:14:00 11 is actually give them the title?

14:14:02 12 THE WITNESS: Exactly. I'm just debating
14:14:04 13 what can I do for my other kids. I want to be fair to
14:14:07 14 all my kids.

14:14:09 15 THE COURT: Mr. Herdman, anything further
14:14:11 16 from Mr. Ismail?

14:14:14 17 MR. HERDMAN: No, Your Honor. Thank you.

14:14:18 18 THE COURT: Okay. You may step down, sir.
14:14:20 19 Thank you.

14:14:23 20 Oh, wait a minute. You heard what I said
14:14:25 21 to Mr. Mahmoud about what will happen if things don't
14:14:28 22 work out?

14:14:30 23 THE WITNESS: Yes, I did.

14:14:31 24 THE COURT: You understand you're trusting
14:14:34 25 not only Mr. Akl to appear and comply with all the

14:14:39 1 conditions of release?

14:14:42 2 THE WITNESS: Yes, sir. Yes, Your Honor.

14:14:43 3 THE COURT: In terms of especially what he
14:14:46 4 can't do. And you understand that if he fails to
14:14:50 5 comply with those conditions, you'll lose the properties
14:14:55 6 that you've put up?

14:14:56 7 THE WITNESS: Yes, Your Honor.

14:15:00 8 THE COURT: And knowing that, you're willing
14:15:01 9 nonetheless to post these properties for security?

14:15:05 10 THE WITNESS: Yes, Your Honor.

14:15:06 11 THE COURT: And is your wife on the --

14:15:09 12 THE WITNESS: On one of them is my wife.

14:15:11 13 She's here. Victoria.

14:15:15 14 THE COURT: Just stand up please, ma'am.

14:15:18 15 MRS. ISMAIL: Yes, Your Honor.

14:15:19 16 THE COURT: You have heard everything we're
14:15:20 17 talking about?

14:15:21 18 MRS. ISMAIL: Yes, Your Honor. I
14:15:23 19 understand. I have an agreement with my husband. I'm
14:15:26 20 willing to offer our property together on Kenwood as
14:15:29 21 collateral.

14:15:29 22 THE COURT: If I were to ask you all the
14:15:31 23 questions I've just asked him, would your answers be the
14:15:35 24 same?

14:15:36 25 MRS. ISMAIL: I believe they would be.

14:15:37 1 THE COURT: Any questions at all?

14:15:40 2 MR. HERDMAN: No, Your Honor.

14:15:42 3 THE COURT: You may step down.

14:15:49 4 MR. HELMICK: Judge, going just in order,

14:15:51 5 there are two properties by the same owner, Ibrahim

14:15:55 6 Mahmoud; 5330 Pawne and 5540 Clover Lane.

14:16:18 7 (The witness was sworn by the clerk.)

14:16:33 8 THE COURT: Good afternoon.

14:16:34 9 THE WITNESS: Good afternoon.

14:16:35 10 THE COURT: Tell me your name, please.

14:16:36 11 THE WITNESS: Ibrahim Mahmoud.

14:16:38 12 THE COURT: Mr. Mahmoud, where do you live?

14:16:40 13 THE WITNESS: I live 5335 Pawne Road,

14:16:44 14 Toledo, Ohio.

14:16:44 15 THE COURT: That's a family residence; is

14:16:44 16 that correct?

14:16:47 17 THE WITNESS: Yes, Your Honor.

14:16:48 18 THE COURT: And you have about \$40,000 worth

14:16:51 19 of equity?

14:16:53 20 THE WITNESS: On?

14:16:53 21 THE COURT: On Pawne Road.

14:16:55 22 THE WITNESS: Yes.

14:16:57 23 THE COURT: You owe 109?

14:17:00 24 THE WITNESS: Yes.

14:17:04 25 THE COURT: How long have you lived there?

14:17:06 1 THE WITNESS: Thirteen years.

14:17:07 2 THE COURT: Who lives with you, if anybody?

14:17:08 3 THE WITNESS: My wife and my kids.

14:17:10 4 THE COURT: How many children do you have?

14:17:12 5 THE WITNESS: Six.

14:17:14 6 THE COURT: Are you employed?

14:17:15 7 THE WITNESS: Yes.

14:17:15 8 THE COURT: What sort of work do you do?

14:17:17 9 THE WITNESS: I own Georgio Pizzeria in

14:17:20 10 Sylvania.

14:17:25 11 THE COURT: How long have you owned that?

14:17:27 12 THE WITNESS: Since 2001.

14:17:31 13 THE COURT: Where were you born?

14:17:32 14 THE WITNESS: Lebanon.

14:17:33 15 THE COURT: Citizen in this country --

14:17:37 16 citizen in this country, that country, or both?

14:17:39 17 THE WITNESS: I have both.

14:17:40 18 THE COURT: How long have you been in this

14:17:42 19 country?

14:17:42 20 THE WITNESS: Since 1976.

14:17:44 21 THE COURT: And you also own on Kenwood; is

14:17:44 22 that correct?

14:17:49 23 THE WITNESS: No.

14:17:50 24 THE COURT: Wait a minute. Clover. I'm

14:17:52 25 sorry. My mistake. I'd reading the wrong line.

14:17:56 1 What kind of property is Clover?

14:17:58 2 THE WITNESS: It's a rental house.

14:18:00 3 THE COURT: A single family?

14:18:02 4 THE WITNESS: Single family.

14:18:06 5 THE COURT: Maybe \$55,000, \$60,000 worth of
14:18:10 6 equity in that as well?

14:18:13 7 THE WITNESS: Close.

14:18:14 8 THE COURT: Have you been delinquent on the
14:18:17 9 mortgages on either of the properties?

14:18:19 10 THE WITNESS: No.

14:18:20 11 THE COURT: Do you have any judgments
14:18:22 12 against you?

14:18:23 13 THE WITNESS: No.

14:18:23 14 THE COURT: Are you presently engaged in any
14:18:25 15 litigation?

14:18:26 16 THE WITNESS: No.

14:18:26 17 THE COURT: Do you own any real estate
14:18:28 18 anywhere else, either in this country or elsewhere?

14:18:31 19 THE WITNESS: I own several real estate
14:18:34 20 here. And I own a house in Lebanon and property.

14:18:37 21 THE COURT: What else do you own in the
14:18:39 22 country?

14:18:39 23 THE WITNESS: I own 1808 East Manhattan. I
14:18:44 24 own 606 Magnolia road. I own 5539 Fenwick.

14:18:53 25 THE COURT: F-e-n-w-i-c-k.

14:18:57 1 THE WITNESS: F-e-n-w-i-c-k.

14:18:59 2 I own 1543 Clay. I own property on
14:19:14 3 Fredonia; 1707, I believe. And I own the property with
14:19:25 4 my brother, 1805 East Manhattan. I don't know if I
14:19:34 5 forgot any.

14:19:35 6 THE COURT: Are the other properties that
14:19:38 7 you mentioned, what are those, rental properties?

14:19:43 8 THE WITNESS: Rental property and commercial
14:19:45 9 properties.

14:19:48 10 THE COURT: And your best estimate of how
14:19:50 11 much equity you have in those?

14:19:52 12 THE WITNESS: I have no idea. I don't know
14:19:57 13 which property you can ask me to -- all of them, you
14:20:00 14 mean?

14:20:00 15 THE COURT: All of them.

14:20:01 16 THE WITNESS: I have no -- I don't have
14:20:06 17 any --

14:20:07 18 THE COURT: Do you know, as to each of them,
14:20:10 19 how much they might be worth if we went through them one
14:20:13 20 by one?

14:20:15 21 THE WITNESS: Well, I have 1808 East
14:20:17 22 Manhattan, worth probably 200.

14:20:21 23 THE COURT: 606 Magnolia?

14:20:23 24 THE WITNESS: I bought it for 35,000.
14:20:25 25 Probably worth that much.

14:20:27 1 THE COURT: And Fenwick?

14:20:31 2 THE WITNESS: Fenwick worth 70.

14:20:34 3 THE COURT: Clay.

14:20:35 4 THE WITNESS: Clay worth about 25.

14:20:37 5 THE COURT: Fredonia?

14:20:40 6 THE WITNESS: Probably was -- right now it

14:20:47 7 isn't worth that much. Probably 500 bucks.

14:20:51 8 THE COURT: We'll say zero. And are any of

14:20:54 9 those properties mortgaged?

14:20:55 10 THE WITNESS: Yes.

14:20:56 11 THE COURT: And 1808 East Manhattan; is that

14:21:00 12 a commercial --

14:21:01 13 THE WITNESS: Huntington Bank.

14:21:02 14 THE COURT: No, is 1808 East Manhattan, is

14:21:07 15 that a commercial property?

14:21:09 16 THE WITNESS: Yes.

14:21:10 17 THE COURT: What's your mortgage on that,

14:21:12 18 roughly?

14:21:13 19 THE WITNESS: About \$90,000.

14:21:17 20 THE COURT: What about the other four

14:21:18 21 properties; do you have mortgages on those?

14:21:20 22 THE WITNESS: Yes, I do.

14:21:21 23 THE COURT: Magnolia?

14:21:22 24 THE WITNESS: Magnolia is -- it's Metamora

14:21:25 25 State Bank.

14:21:26 1 THE COURT: About how much?

14:21:28 2 THE WITNESS: About \$20,000.

14:21:29 3 THE COURT: Fenwick?

14:21:30 4 THE WITNESS: Fenwick, \$50,000.

14:21:33 5 THE COURT: And Clay?

14:21:34 6 THE WITNESS: Clay, zero.

14:21:37 7 THE COURT: And Fredonia?

14:21:39 8 THE WITNESS: Fredonia, I don't --

14:21:42 9 THE COURT: Why are you not willing to put

14:21:44 10 that property up as well?

14:21:45 11 THE WITNESS: My wife, she wouldn't do it.

14:21:47 12 She's not here. She's not in the country.

14:21:50 13 THE COURT: Are you willing to put up your

14:21:52 14 interest in that property?

14:21:53 15 THE WITNESS: Yes.

14:21:56 16 THE COURT: And is your wife likely to be

14:21:58 17 returning; do you know? Is she going to be able to?

14:22:01 18 THE WITNESS: She is kind of a little

14:22:03 19 worried about it.

14:22:05 20 THE COURT: In other words, she does not

14:22:07 21 want to put the property up?

14:22:09 22 THE WITNESS: Correct.

14:22:09 23 THE COURT: She's worried that --

14:22:11 24 THE WITNESS: She's just worried. She's

14:22:13 25 not comfortable.

14:22:15 1 THE COURT: But you are?

14:22:17 2 THE WITNESS: Yes, I am.

14:22:18 3 THE COURT: You're confident that Mr. Akl
14:22:20 4 will appear if I let him out of jail?

14:22:24 5 THE WITNESS: Yes, I am.

14:22:25 6 THE COURT: How long have you known him?

14:22:26 7 THE WITNESS: All my life -- all his life.

14:22:28 8 THE COURT: Both in Lebanon and here?

14:22:30 9 THE WITNESS: Yes.

14:22:31 10 THE COURT: From the same town over there, I
14:22:33 11 guess?

14:22:33 12 THE WITNESS: Yes.

14:22:40 13 THE COURT: Okay. Mr. Helmick, any --

14:22:43 14 THE JUROR: Judge, maybe just a little bit
14:22:45 15 of edification. At the time that Amera Akl had her bond
14:22:51 16 hearing, there was talk about trying to get consent from
14:22:55 17 his wife, but it was extremely difficult because she had
14:22:58 18 just -- she had had prior plans and had just travelled
14:23:02 19 overseas. We tried to set up a Skype video conference,
14:23:06 20 and we just couldn't -- they just couldn't establish it
14:23:10 21 or connect it to get her consent on those properties.
14:23:13 22 I think ultimately what happened is the magistrate was
14:23:15 23 satisfied with the amount that was satisfied for Amera,
14:23:18 24 and we simply never got there. But we did make an
14:23:20 25 effort, Judge. I was sweating over my laptop, summoned

14:23:27 1 over my laptop at one point. I'd be -- I was glad to
14:23:33 2 help out if I could, but we just couldn't pull it off.
14:23:38 3 As a result, other accommodations were made by the
14:23:41 4 magistrate.

14:23:42 5 THE COURT: I understand.

14:23:43 6 MR. HELMICK: I didn't want you to think --

14:23:47 7 THE COURT: You've known your client his
14:23:49 8 entire life; he's saying my wife's not as confident.

14:23:53 9 MR. HELMICK: There was some question about
14:23:54 10 the language barrier and getting her to understand
14:23:57 11 exactly what it was the procedure was and what she was
14:24:01 12 asked to do. That's why it didn't go through.

14:24:03 13 THE COURT: Is your wife likely to be
14:24:04 14 returning to this country?

14:24:06 15 THE WITNESS: August 24.

14:24:07 16 THE COURT: I'll leave it open to the
14:24:09 17 government. If it wants, assuming that this gets
14:24:12 18 completed, if it wants to undertake to have the
14:24:16 19 additional properties posted, I'm more than glad to
14:24:19 20 undertake to do so once the wife is home.

14:24:25 21 Mr. Herdman?

14:24:25 22 MR. HERDMAN: Thank you, Your Honor.

14:24:27 23 - - -

14:24:27 24 IBRAHIM MAHMOUD, CROSS-EXAMINATION

14:24:27 25 BY MR. HERDMAN:

14:24:27 1 Q. Mr. Mahmoud, how are you?

14:24:30 2 A. How are you, sir?

14:24:31 3 Q. You stated you owned Georgio Pizzeria in
14:24:35 4 Sylvania?

14:24:35 5 A. Yes.

14:24:36 6 Q. Is that your sole mode of income?

14:24:38 7 A. I rent there. I have the business. I own the
14:24:41 8 business.

14:24:41 9 Q. Do you have other ways of making income? Do you
14:24:43 10 have other businesses that you own?

14:24:44 11 A. I do have another business in Perrysburg
14:24:47 12 Township, will be open next two weeks. It was opened,
14:24:50 13 but I moved the location from one spot to the other.

14:24:52 14 Q. What is that business?

14:24:53 15 A. Georgio Pizzeria.

14:24:55 16 Q. Pizzeria. Okay. And I know Judge Carr asked
14:24:59 17 you this, but you do own property in Lebanon?

14:25:01 18 A. Yes.

14:25:02 19 Q. Can you estimate what the value of that property
14:25:05 20 is?

14:25:05 21 A. I have my house; it's free and clear. We don't
14:25:07 22 get no mortgage there. And I have another piece of
14:25:10 23 property which I bought in '85.

14:25:12 24 Q. Do either of those properties generate any income
14:25:16 25 for you?

14:25:16 1 A. Just an olive tree that -- the house is empty.
14:25:20 2 We live in it.

14:25:21 3 Q. I don't know how much olives go for these days,
14:25:24 4 but is that a substantial amount of income?

14:25:26 5 A. The value of the house?

14:25:28 6 Q. The olives.

14:25:29 7 A. Maybe we get, like, a couple thousand dollars
14:25:31 8 every year, \$1,000 every year.

14:25:33 9 Q. The two properties that you posted here, the
14:25:39 10 Pawne and Clover properties, those are properties that
14:25:43 11 are solely in your name? Your wife's name is not on
14:25:45 12 those properties?

14:25:46 13 A. Yes. Last time I remember they were in her name
14:25:49 14 and my name.

14:25:49 15 Q. So both of you are on the deed for those
14:25:52 16 properties?

14:25:52 17 A. I believe last time when we were here for Amera,
14:25:56 18 they show them both in her name -- her name and my name.

14:26:00 19 Q. So all the properties that you own, including the
14:26:03 20 rental properties, your wife is also on the deed?

14:26:06 21 A. I believe so. But I know for sure 1805, it's
14:26:10 22 not in her name.

14:26:13 23 Q. That's what your brother --

14:26:14 24 THE COURT: I think he can probably encumber
14:26:17 25 the property. It would seem to me it would not be

14:26:19 1 transferrable. If he -- I don't know any real estate
14:26:24 2 law. I'm saying to me, it seems to me if I were --

14:26:28 3 MR. HERDMAN: That's certainly true. I
14:26:30 4 guess -- well, if it were a tax lien on him, in
14:26:33 5 particular, I think he could encumber the property. I
14:26:38 6 wanted to clarify.

14:26:39 7 THE COURT: I hadn't thought about that.

14:26:45 8 MR. HERDMAN: I'll just direct this to Mr.
14:26:47 9 Helmick. I don't remember if there was a
14:26:48 10 power-of-attorney that had been executed by his wife at
14:26:51 11 some point.

14:26:51 12 MR. HELMICK: I don't believe so. Frankly,
14:26:55 13 I don't believe. However, he did execute the agreement
14:27:01 14 to forfeiture, and her name does not appear for both
14:27:05 15 properties.

14:27:09 16 MR. HERDMAN: I think that was all I had.

14:27:12 17 MR. HELMICK: Nothing.

14:27:13 18 MR. HERDMAN: Nothing else, Your Honor.

14:27:15 19 Thank you.

14:27:15 20 THE COURT: Would you be willing to post the
14:27:17 21 other properties we talked about?

14:27:21 22 THE WITNESS: If anything I could do in my
14:27:23 23 name alone.

14:27:24 24 THE COURT: I think I'll require that.

14:27:26 25 Because I think that suffices. I mean, the property,

14:27:29 1 if he signs a bond, I think I certainly would take it
14:27:34 2 and sell it, let somebody else worry about it.

14:27:38 3 And you understand that's what I would do if
14:27:40 4 he doesn't do everything he has to do?

14:27:43 5 THE WITNESS: Yes, Your Honor.

14:27:44 6 THE COURT: You may step down.

14:27:46 7 THE WITNESS: Thank you.

14:28:14 8 THE COURT: Mr. Helmick.

14:28:16 9 MR. HELMICK: The last property listed
14:28:18 10 before the new property notation is 4347 Weldwood. You
14:28:23 11 may remember from our sidebar conference that Abdul Akl
14:28:27 12 is currently in Lebanon. However, he executed a
14:28:29 13 power-of-attorney with regard to that property.

14:28:32 14 THE COURT: Let me say, I would ask only
14:28:35 15 that perhaps you get a transcript of what we've done
14:28:39 16 here and go over that with him and confirm then once you
14:28:42 17 have that he remains willing, despite the notification
14:28:47 18 that you have communicated with him with regard to all
14:28:51 19 of this.

14:28:51 20 MR. HELMICK: Very good, Your Honor. Do
14:28:53 21 you want to hear from his power-of-attorney, which is
14:28:57 22 Amera's mother, about her consent to do so on his
14:29:00 23 behalf? The power-of-attorney empowers her to encumber
14:29:04 24 the property.

14:29:05 25 THE COURT: That's okay.

14:29:06 1 MR. HELMICK: She's already a custodian.

14:29:08 2 THE COURT: That's fine. Unless, Mr.

14:29:09 3 Herdman, do you want to?

14:29:11 4 MR. HERDMAN: No, not with respect to that.

14:29:13 5 I do have some concerns about this particular property.

14:29:15 6 The only question I have for Mr. Helmick is I see

14:29:21 7 Ibrahim Mahmoud is listed at 1805 Manhattan as one of

14:29:26 8 the owners. Is that Ibrahim Mahmoud that just

14:29:31 9 testified? Is it the same person? I assume it is.

14:29:37 10 MR. MAHMOUD: Yes.

14:29:38 11 MR. HELMICK: I'm comfortable saying yes

14:29:45 12 MR. HERDMAN: Your Honor, I do remember Mr.

14:29:46 13 Akl -- Mr. Abdul Akl testifying at the bond hearing for

14:29:52 14 Amera. My recollection is somewhat hazy, but this

14:29:55 15 Weldwood property is not his residence. I believe he

14:29:58 16 actually lives in a fairly expensive house in Fulton

14:30:06 17 County, I believe. I think his testimony was it was

14:30:08 18 somewhere in excess of a million dollars, the residence

14:30:10 19 that he lives in. And the other thing I remember about

14:30:13 20 Mr. Abdul Akl's testimony is that he owns Rumors, a

14:30:16 21 restaurant that I think generates some substantial

14:30:19 22 income for him, along with some additional property.

14:30:23 23 So I am very concerned that this is the --

14:30:24 24 THE COURT: When will he be available?

14:30:28 25 MS. JOSEPH: He won't be back until August

14:30:30 1 15 or 20.

14:30:33 2 MR. HELMICK: That's the best information I
14:30:35 3 have, Your Honor, from his family.

14:30:41 4 MR. HERDMAN: This is a small fraction of.
14:30:45 5 And the power-of-attorney is limited only to this
14:30:48 6 property here; is that right?

14:30:49 7 MR. HELMICK: That's correct, Your Honor.
14:30:51 8 He does have a residence in Berkeley in Fulton County. He
14:30:57 9 does have a residence there, Your Honor. And that's
14:30:59 10 correct, this power-of-attorney does not authorize her
14:31:02 11 to encumber that property.

14:31:04 12 THE COURT: With regard to Mr. Akl, was the
14:31:05 13 issue of the posting of that property raised at all?

14:31:13 14 MR. HELMICK: It wasn't contested, Your
14:31:15 15 Honor. I guess that's the best way to put it.

14:31:21 16 THE COURT: Then finally --

14:31:23 17 MR. HELMICK: Your Honor, the last piece is
14:31:28 18 Nazem Akl. For the reasons I made known to the Court
14:31:30 19 at sidebar, he is not available today but can be
14:31:33 20 produced for the Court or Magistrate if you'd like and
14:31:36 21 has indicated a willingness to post this, which is his
14:31:39 22 family residence with his wife.

14:31:50 23 THE COURT: What I'm going to do today is
14:31:52 24 I'm going to adjourn these proceedings. What I would
14:31:57 25 ask counsel to do would be in light of what the

14:32:03 1 conditions that I sort of read into the record, perhaps
14:32:07 2 if you could undertake to formulate a proposed order,
14:32:13 3 and by, quote, "agreement" only insofar as the
14:32:16 4 government accepts whatever the language is, but given
14:32:22 5 what's just been said to me, I'm not going to -- at
14:32:29 6 least pending further court order, the release order
14:32:34 7 will not be implemented pending an appearance by Mr.
14:32:38 8 Abdul Akl and an examination as to -- with regard to his
14:32:42 9 willingness to post both his residence and, to the
14:32:47 10 extent he owns any commercial property, that as well.
14:32:50 11 I'll be very candid. If he's not willing,
14:32:53 12 I'm going to have some serious reservations. I may go
14:32:57 13 ahead and release him in any event, but as I said
14:33:00 14 before, a principal or the primary reason I'm
14:33:06 15 considering doing what I'm doing is that people who know
14:33:09 16 Mr. Akl best are willing to say, We'll put up a major
14:33:15 17 portion of what we're worth knowing that we'll lose it
14:33:19 18 permanently if he fails and the third party custodian or
14:33:23 19 custodians fail to comply with each and every material
14:33:28 20 condition of release. And if Mr. Abdul Akl is not
14:33:35 21 willing to do that, at the very least, I want to
14:33:43 22 inquire; I want the inquiry to occur and make a
14:33:45 23 determination as to why that might be. I can
14:33:47 24 understand with Mr. Mahmoud, the circumstance with the
14:33:57 25 wife, apprehension, particularly if there are language

14:34:02 1 problems and so forth and so on. But what I've just
14:34:07 2 been told about Mr. Abdul Akl, it appears he's a capable
14:34:12 3 and successful businessman. And his judgment is to put
14:34:15 4 up part but not a significant portion of what he's
14:34:22 5 worth. And I think that's something for me to take into
14:34:27 6 consideration. That's not to say I would preclude
14:34:30 7 entirely accepting the proposed conditions, but I would
14:34:34 8 want to have -- I would want the parties to be heard,
14:34:38 9 and I'd want to give careful attention to whatever Mr.
14:34:41 10 Akl had to say about why it was he wasn't willing to do
14:34:44 11 so.

14:34:47 12 He's not going to return until mid August?

14:34:49 13 MR. HELMICK: Apparently so, Your Honor.

14:35:09 14 THE COURT: Let me say this. Is he in
14:35:11 15 Lebanon?

14:35:12 16 MR. HELMICK: Yes, Your Honor, he is.

14:35:13 17 THE COURT: If you can arrange a video
14:35:17 18 conference, that's fine with me.

14:35:20 19 MR. HELMICK: I might be able to do that,
14:35:22 20 Your Honor. I will work on that right away.

14:35:24 21 THE COURT: And Amy, does it still look like
14:35:28 22 Friday morning's gone out?

14:35:39 23 (Discussion had off the record.)

14:35:40 24 THE COURT: I've got to leave in a couple
14:35:42 25 hours. Why don't you guys talk to each other. If it

14:35:47 1 looks as though you can set something like that up, if
14:35:50 2 we can do it at 8:00 on Friday morning. Will you be
14:35:53 3 available then or by person or by video?

14:35:56 4 MR. HERDMAN: I will not, Your Honor. My
14:35:57 5 sister's getting married this weekend, so I will be out
14:36:01 6 of town. I could try to -- I could either arrange for
14:36:05 7 coverage with another one of the prosecutors. I guess
14:36:08 8 I could try to call in. I haven't had much luck doing
14:36:13 9 that in the past, calling into the Court. I tend to
14:36:15 10 lose a lot.

14:36:16 11 THE COURT: Let's wait and see. The
14:36:18 12 problem is I'm leaving. I mean, I suppose we could set
14:36:23 13 something up by telephone while I'm away. Let's do
14:36:27 14 that. If we can set something up before, I would also
14:36:32 15 be available this Friday afternoon. I realize, Mr.
14:36:35 16 Herdman, you wouldn't be. I'm just trying to figure
14:36:42 17 out some way, rather than if I conclude that whatever
14:36:46 18 the circumstances may be with regard to Mr. Akl that
14:36:50 19 release -- conditions are appropriate, I'd just as soon
14:36:56 20 not wait until I get back from vacation on the 23rd of
14:37:00 21 August. I don't want to inconvenience you. If
14:37:03 22 necessary we can do it by phone. In the meantime you
14:37:06 23 can be inquiring and seeing what the situation is.

14:37:09 24 MR. HELMICK: Obviously I'll keep
14:37:11 25 communication open with the government and the Court,

14:37:14 1 the Court's deputy as well.

14:37:16 2 THE COURT: In the meantime if you could be
14:37:19 3 preparing a proposed order, as I indicated, it would be
14:37:24 4 very helpful.

14:37:25 5 MR. HERDMAN: I'm sorry, Your Honor?

14:37:26 6 THE COURT: In light of the conditions that
14:37:27 7 I was enumerating.

14:37:30 8 MR. HERDMAN: Yes, Your Honor.

14:37:31 9 THE COURT: If you can either jointly or
14:37:35 10 severally cast those into the form of a proposed order.
14:37:39 11 And perhaps if you can get that to me by Friday to look
14:37:43 12 at.

14:37:43 13 MR. HERDMAN: I'll leave it up to Mr.
14:37:45 14 Helmick.

14:37:46 15 MR. HELMICK: We'll work together. I'll
14:37:49 16 draft something.

14:37:50 17 Judge, might the Court consider a simple
14:37:52 18 exception to the telephone usage rule so that he can
14:37:56 19 call his lawyer?

14:37:57 20 THE COURT: Of course. That's exactly the
14:38:00 21 kind of thing -- I kind of was making it up as I was
14:38:07 22 going along. It needs to be cast into a suitable form.
14:38:11 23 And also there may be other things, in particular from
14:38:14 24 the government, that come to mind. But I do want the
14:38:17 25 government to have the opportunity, if it chooses to do

14:38:22 1 so, to intercept any and all formal communications
14:38:25 2 without notice to anybody; because candidly, I think
14:38:28 3 that is an important condition, and I would hope the
14:38:32 4 government would implement it, if not 24/7, at least on
14:38:37 5 a random basis so people understand. And certainly if
14:38:40 6 there were any deviation from the restrictions on
14:38:45 7 communications and the use and modes of communication,
14:38:53 8 every property would be taken. And the person, the
14:38:57 9 custodian present at the time would be before me on a
14:39:01 10 show cause order why they should not be sanctioned,
14:39:04 11 including imprisoned, for the failure to comply.

14:39:09 12 That's the other thing I want -- are her
14:39:13 13 custodians here today?

14:39:14 14 MR. HELMICK: One of them is here today.

14:39:23 15 This is Naja Joseph, Amera's mother, and one
14:39:26 16 of two custodians.

14:39:36 17 (The witness was sworn by the clerk.)

14:39:47 18 THE COURT: Good afternoon.

14:39:48 19 THE WITNESS: Good afternoon.

14:39:49 20 THE COURT: Your name is?

14:39:50 21 THE WITNESS: Naja Joseph.

14:39:51 22 THE COURT: Mrs. Joseph, you're Mrs. Akl's
14:39:54 23 mom; is that correct?

14:39:55 24 THE WITNESS: Yes.

14:39:55 25 THE COURT: One thing, I don't know whether

14:39:57 1 the magistrate advised you, as I was simply reciting
14:40:02 2 with regard to any custodian or custodians that might be
14:40:06 3 proposed for Mr. Akl that the obligations that you have
14:40:11 4 accepted as a third party custodian are an order of the
14:40:17 5 Court. You understand that?

14:40:19 6 THE WITNESS: Yes.

14:40:19 7 THE COURT: That if you were to breach any
14:40:21 8 of those obligations, you would be in contempt of court.
14:40:25 9 Do you understand that?

14:40:26 10 THE WITNESS: Yes.

14:40:26 11 THE COURT: Do you understand what I mean by
14:40:28 12 that?

14:40:28 13 THE WITNESS: Yes.

14:40:29 14 THE COURT: You would have something that I
14:40:31 15 don't think anybody would want to have, and that would
14:40:33 16 be a very angry federal judge.

14:40:35 17 THE WITNESS: Yes.

14:40:35 18 THE COURT: Do you understand that?

14:40:37 19 THE WITNESS: Yes, I do.

14:40:38 20 THE COURT: I would undertake to do whatever
14:40:41 21 I could to punish you.

14:40:42 22 THE WITNESS: Yes.

14:40:42 23 THE COURT: That would include not just a
14:40:44 24 failure to appear, but with regard to the current
14:40:47 25 conditions and any additional conditions that I might

14:40:51 1 impose upon your daughter and yourself, that would
14:40:54 2 include those conditions as well. You understand that?

14:40:57 3 THE WITNESS: Yes.

14:40:58 4 THE COURT: And one of the things that Mr.
14:40:59 5 Herdman called to my attention, and I think is a very
14:41:03 6 legitimate concern, is to try to make it as difficult,
14:41:13 7 if not impossible, but as difficult as possible that
14:41:17 8 there could be no joint effort made on the part of the
14:41:21 9 entire family to flee. Do you understand that?

14:41:24 10 THE WITNESS: Yes, I do.

14:41:26 11 THE COURT: And to that end I anticipate
14:41:28 12 whatever order I would enter may also include an
14:41:30 13 amendment to the order with regard to your daughter with
14:41:34 14 regard to use of any communication devices: telephones,
14:41:39 15 cell phones, computers, Voice over, whatever.

14:41:44 16 THE WITNESS: Yes.

14:41:45 17 THE COURT: And part of your job as a
14:41:47 18 custodian would be to notify Pretrial Services and my
14:41:51 19 office immediately --

14:41:53 20 THE WITNESS: Yes.

14:41:53 21 THE COURT: -- if there were any violation
14:41:56 22 of that.

14:41:56 23 THE WITNESS: Yes.

14:41:57 24 THE COURT: You walk in the room; there she
14:41:59 25 is on the telephone, and she shouldn't be on the

14:42:00 1 telephone. Do you understand?

14:42:03 2 THE WITNESS: I understand all that. Yes,
14:42:04 3 I do.

14:42:05 4 THE COURT: Knowing that, you're willing to
14:42:06 5 continue as your daughter's custodian?

14:42:09 6 THE WITNESS: Yes, I am.

14:42:10 7 THE COURT: I gather there's been no
14:42:11 8 problem?

14:42:12 9 THE WITNESS: No, thank God, so far.

14:42:15 10 THE COURT: Very good. You may step down.

14:42:24 11 The other thing I might suggest, a couple
14:42:27 12 things in light of what I was just saying, to the extent
14:42:30 13 that the conditions of release for both would be
14:42:35 14 coordinated so I would have an amended order of
14:42:38 15 conditions of release for Mrs. Akl and as well in terms
14:42:42 16 of putting together something that is an acknowledgment
14:42:45 17 signed by the custodians in terms of familiarity with
14:42:49 18 the conditions of release and acceptance and the
14:42:54 19 consequences of a violation and that they understand and
14:42:58 20 accept the responsibilities and are aware of the
14:43:04 21 consequences of their failure to comply. And, Mr.
14:43:09 22 Herdman, if you and your colleagues think of other
14:43:11 23 conditions that you --

14:43:14 24 MR. HERDMAN: Ms. Poteat will speak to, I
14:43:16 25 think, the consent issue. It might take a couple days.

14:43:20 1 MS. POTEAT: With respect to the Title III
14:43:21 2 or any consent that might occur, we're going to have to
14:43:25 3 get that in writing from those individuals, so we'll
14:43:28 4 prepare a consent form.

14:43:29 5 THE COURT: Anything of that sort, by all
14:43:31 6 means. I would rather leave it to you folks to try to
14:43:35 7 work that out hopefully where you have some concurrence
14:43:40 8 as to the language so that you're both satisfied with
14:43:43 9 it.

14:43:43 10 MS. POTEAT: It would include -- in that
14:43:45 11 consent form we would include hopefully an inventory of
14:43:47 12 what facilities we're addressing.

14:43:50 13 THE COURT: Absolutely. And obviously
14:43:53 14 production of any toll records, any billing statement,
14:43:56 15 anything of that sort.

14:43:57 16 MS. POTEAT: Yes, Your Honor. We'll itemize
14:44:00 17 all of that.

14:44:00 18 THE COURT: And anything else you can think
14:44:02 19 of.

14:44:02 20 Mr. Herdman?

14:44:04 21 MR. HERDMAN: Two more things, Your Honor.
14:44:06 22 I don't know that we've had any discussion about the
14:44:08 23 potential custodians for Mr. Akl.

14:44:10 24 THE COURT: We haven't. At least I haven't
14:44:12 25 heard yet.

14:44:13 1 MR. HERDMAN: I don't know if we want to
14:44:15 2 address that later on.

14:44:17 3 THE COURT: My sense is -- have you had a
14:44:19 4 chance to talk to anybody? Do you have anybody in mind?

14:44:22 5 MR. HELMICK: We did have some names. We
14:44:23 6 shared some with Mr. Martin as well. In light of the
14:44:27 7 Court's decision, though, with regard to residence, I
14:44:29 8 would like an opportunity to revise that with the
14:44:31 9 family.

14:44:32 10 THE COURT: My thought, as soon as you have
14:44:34 11 people lined up, let them know. I think it's fair for
14:44:39 12 them to do a mini background check to make sure there
14:44:42 13 aren't reasons for concern.

14:44:44 14 MR. HELMICK: I will, Your Honor.

14:44:45 15 THE COURT: It's customary.

14:44:47 16 MR. HELMICK: I'll let Mr. Martin know as
14:44:50 17 well, of course.

14:44:51 18 MR. HERDMAN: And there was also the
14:44:52 19 outstanding issue of Mr. Nazem Akl. I know that's a
14:44:56 20 minor issue, but I know he's willing to come back in to
14:44:59 21 offer some testimony as well.

14:45:01 22 MR. HELMICK: That's correct.

14:45:01 23 THE COURT: I can't remember. You told me.
14:45:03 24 He's out of the country as well?

14:45:04 25 MR. HELMICK: No, Your Honor, it's a

14:45:06 1 family --

14:45:07 2 THE COURT: Sure.

14:45:11 3 MR. HELMICK: So I will confer with him as
14:45:13 4 well, and perhaps that's something we can do on Friday
14:45:16 5 if the Court has a little time and he could be
14:45:18 6 available.

14:45:20 7 MR. HERDMAN: It's possible.

14:45:21 8 THE COURT: Well, could somebody, if we --
14:45:24 9 if Mr. Helmick, Mr. Akl, and I were all here, could
14:45:28 10 somebody from your office be by phone? It would be the
14:45:31 11 same drill I did here.

14:45:32 12 MR. HERDMAN: I think we could accommodate
14:45:34 13 that.

14:45:35 14 THE COURT: I don't want your sister or her
14:45:36 15 mother mad at me. I have four brides; I know what the
14:45:41 16 day of the wedding is like. I just told Mrs. Joseph
14:45:44 17 she doesn't want a federal judge mad at her. I don't
14:45:48 18 want the mother of a bride mad at me.

14:45:51 19 As I say, we'll be in adjournment, and then
14:45:54 20 pending further proceedings and further court order.

14:45:56 21 MR. HELMICK: Thank you, Your Honor.

14:45:57 22 THE COURT: If in the meantime something of
14:46:00 23 concern arises, please feel free to do so.

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled
matter.

/s Tracy L. Spore_____

Tracy L. Spore, RMR, CRR

Date